

UNIVERSAL
LIBRARY

OU_148731

UNIVERSAL
LIBRARY

OSMANIA UNIVERSITY LIBRARY

Call No 3218 / T48.D Accession No. 21192

Author Thomas, D

Title Democratic -- England

This book should be returned on or before the date
last marked below:

CURRENT PROBLEMS

General Editor:

ERNEST BARKER, LITT.D.

THE DEMOCRATIC IDEAL IN
FRANCE AND ENGLAND

Uniform with this Volume

Political Propaganda

By F. C. BARTLETT

Problems of the Baltic

By W. F. REDDAWAY

THE
DEMOCRATIC IDEAL IN
FRANCE AND ENGLAND

By

DAVID THOMSON, M.A., Ph.D.

Research Fellow of Sidney Sussex College, Cambridge

CAMBRIDGE
AT THE UNIVERSITY PRESS

1940

CAMBRIDGE
UNIVERSITY PRESS
LONDON : BENTLEY HOUSE
NEW YORK, TORONTO, BOMBAY
CALCUTTA, MADRAS : MACMILLAN
TOKYO : MARUZEN COMPANY LTD

All rights reserved

CONTENTS

	PAGE
PREFACE	vii
CHAPTER	
I. THE DEMOCRATIC IDEAL	I
II. DEMOCRATIC POLITICS	24
III. RESPONSIBILITY OF MINISTERS	51
IV. SEPARATION OF POWERS	79
V. THE RULE OF LAW	105
VI. ECONOMIC DEMOCRACY	122
INDEX	135

PREFACE

THE democratic ideal, like all visions capable of exciting the enthusiasm of men, has in the past taken shape by successfully overcoming the challenge of rival and inferior aspirations. It lives by being constantly restated in terms of the forces to which it is opposed. If it be an ideal worthy of human devotion, the present challenge of Nazism becomes not a threat to the survival of an old creed, but rather a new opportunity for democrats to restate the ideal in terms relevant to our times. It is doubtful whether the eternal truth that exists in the democratic ideal can ever be perfectly distilled and formulated as a dogma for all time. Perhaps even to attempt such a task is a mistake. This little essay attempts something less ambitious but possibly, at the present time, more useful. It is an analysis of the chief characteristics of that democratic conception of society which has emerged in a particular set of circumstances: in the conditions of France and England during the last two and a half centuries. The formulation of the ideal in terms of social and political organisation, and the precise emphasis which happens to be placed upon particular aspects of it, are necessarily determined by such conditions of time and place. It is these particularities which ought most

to concern us to-day. The historical approach is at present more useful than the philosophical. Though this book was in type before the overthrow of the Third Republic in France, and most references to France have therefore been left in the present tense, no change of interpretation has been made necessary by the events of July 1940.

It is more important than ever to reach certain historical judgments ; to decide the extent to which the democratic ideal in Europe is the common discovery and the joint heritage of France and England ; to discover how much the ideal is interwoven with the national life of these two countries, and with their very achievement of national independence and unity. The former unity of purpose of the two peoples can survive the political breakdown of France only if we realise that this unity was the climax, and not merely the beginning, of a long process of interaction and "growing together," of common subjection to the same political and economic forces, of simultaneous aspiration for the same ideals, however divergent the route.

I wish to thank Miss Margaret Dallas, whose knowledge of France and whose patient help have been so valuable to me these past few months : and Dr. Ernest Barker for his helpful criticisms.

D. T.

Cambridge, July 1940.

THE DEMOCRATIC IDEAL IN FRANCE AND ENGLAND

CHAPTER I

THE DEMOCRATIC IDEAL

*Quel est le but poursuivi par les Français dans la démocratie ?
C'est essentiellement, me semble-t-il, d'affranchir l'individu,
intellectuellement par le laïcisme, politiquement par la résistance
à la tyrannie. (ANDRÉ SIEGFRIED.)*

§ 1

THE democratic ideal, as it has been evolved and expressed in Europe during the last two hundred and fifty years, is the child of France and Britain. To the cohabitation of these parents it owes its birth, and in the environment provided by them it has reached maturity.

The democratic ideal, as a strong driving-force of political and social change, first became important in France and England in the eighteenth century. Mr. Leonard Woolf has described the emergence and evolution of the ideal in that period.¹ "Democracy,"

¹ *After the Deluge*, Vol. I (1931).

he decides, "begins in the heads of men living in the seventeenth century and the eighteenth century. Its origins may be traced to an attitude of mind to and a consciousness of individuality. . . . It implied certain beliefs with regard to happiness, equality, and liberty, and their relevance or importance in human society." This ideal came into sharp conflict with the existing political and social structure in both countries. Its growth was influenced partly by these internal conflicts in both countries, and partly by the long series of wars between France and Britain in the eighteenth century.

Relations between France and England at this time present us with a strange paradox. Between the English Revolution of 1688 and the Battle of Waterloo in 1815, England fought seven wars, of which the shortest lasted seven years and the longest twelve. Of these seven wars, five were from the first wars against France, and the other two ended as wars against France. In short, England was at peace with France for only half this whole period; and even when they were nominally at peace, actual hostilities were often going on between their forces in India and in Canada.¹

Yet this period of persistent warfare between the two countries was also a time of great social and cultural community between them. Their literary

¹ Cf. Sir John Seeley's *The Expansion of England*, Lecture II.

and intellectual life became closely intertwined. The salons of Paris lionised Gibbon and Hume. The English Constitution became, through the influence of Voltaire, Montesquieu and de Lolme, the envy and model for the reformers of France. French culture and refinement were the envy and model for England, no less than for the rest of Europe. The integrity of European culture seems scarcely ruffled, let alone broken, by this second "Hundred Years' War." For Gibbon, French was "the familiar language of my conversation and my studies, in which it was easier for me to write than in my mother-tongue." It was in this atmosphere of liberal, cosmopolitan culture that the democratic ideal took shape.

It eventually took shape in two great revolutionary movements—the American Revolution of 1776 against the *ancien régime* of England, and the French Revolution of 1789 against the *ancien régime* in France. It is not sufficiently realised that one is the counterpart of the other. The main force of the democratic movement struck France internally, and took the revolutionary form of Jacobinism. It struck England externally, and took the equally revolutionary form of American Independence. Its strongest internal expressions were the Wilkes riots in Middlesex, and the growth of the subsequent Radical movement which agitated for complete

parliamentary reform. This original difference has coloured the whole subsequent development and application of the ideal in the two countries. Attempt will be made to explain some of these characteristic differences in this short essay.

The philosophy of the ideal itself need not be elaborated here. Mr. Leonard Woolf has analysed its growth psychologically, in the work already mentioned. Professor Laski has given an economic interpretation of it in his *Rise of European Liberalism*. The Master of Balliol has analysed it philosophically in his essay on *The Essentials of Democracy*. Suffice to indicate here a few of its main characteristics.¹

Lord Acton struck the authentic note of the democratic approach to politics when he wrote: "All power corrupts; absolute power corrupts absolutely." This approach is composed of scepticism and optimism; scepticism as to the reliability of all men when in positions of power, combined with an optimistic belief in the shrewdness and the political usefulness of the judgments of ordinary men. It recognises both the frailty and the goodness of human nature. Dictatorship is based on the opposite approach; upon trust in the goodness of governments, and contempt for the judgments of ordinary men. Democratic government is, in short,

¹ I have given my own interpretation more fully in *Personality in Politics* (1939).

the artificial organisation of human communities, with the aim of protecting the ordinary citizen against violence and other injustice. There is a sense in which dictatorship is "natural" and democracy "artificial": in the sense that cholera, cyclones and floods are natural phenomena, expressions of the inherent violence of nature, against which men can protect themselves only by constant watchfulness, ingenuity and organisation.

For democratic government to flourish in any community, at least two conditions are necessary. There must be a popular vision of the most desirable sort of society—a society which shall give the greatest degree of freedom and happiness to the ordinary citizen. And there must be within the community a certain balance between the forces of cohesion and the forces of individualism. The argument may be made clearer if each of these conditions is considered in turn.

§ 2

It is neither illusive nor irrelevant to speak of "the democratic vision." It is to-day—as in the last century—a vision and a conception shared by many thousands of people in many parts of the world, though coloured and diversified by conditions of time and place. And it can be postulated that unless

a majority of people in a community have this vision, and unless it finds concrete expression, however imperfectly, in the constitutional machinery, political habits and social life of their State, then it is a vision which can be dispersed and lost. Nor does a State lose its claim to be thought of as a democratic State merely because it imperfectly realises and only partially embodies this vision. The vision of a community of free and happy citizens, protected by their political system against arbitrary violence, is to some extent an ideal conception, and therefore doomed to be defectively expressed in practice. What matters is the survival of the vision, its ability to inspire influential sections of the community, and the sincere effort of these people to reduce it to actuality. It is necessary to insist upon this, because many sinister attempts have been made, in recent years, to discredit an inconvenient State by denying its claim to be called a democracy. Czechoslovakia and Finland are the more obvious victims of this propaganda. Many of the troubles of our times are caused by the ascendancy of nations where people who shared this vision have been suppressed or destroyed. In these States the vision of a very different kind of community-life is strenuously encouraged and vigorously expressed in the political arrangements of dictatorship. Wherever, for diverse historical reasons, the democratic vision has not taken firm hold of the

minds of men, the premature setting up of political democracy has served only to discredit the vision itself : and this has happened in many of the countries of post-war Europe, including Germany.

Popular vision of the desirably " democratic " society is usually based upon experience of alternative and less desirable forms of government. The democratic ideal is conditioned by the forces against which it protests. And this helps to give it that permanent posture of protest which is a feature of all democratic principles—that scepticism and watchfulness which are in its very fibre. This feature stands out clearly in both the French and the British versions of the ideal.

The basis of the democratic ideal in France is the French Revolution of 1789, with its threefold slogan, " Liberty, Equality, Fraternity." In impetus, it was an essentially middle-class protest against the whole structure of the *ancien régime* in France, with its framework of political despotism, its gross economic inequalities, its texture of privileged social classes.

In attacking the structure of social privilege, the Revolution was led to attack also the Catholic Church in France. Mr. Belloc, in a sentence, has explained why. " Within memory of all men living, the Church had become more and more official, the masses of the great towns had wholly lost touch with it, the intelligence of the country was in the

main drawn to the Deist or even to the purely sceptical propaganda, the powerful Huguenot body was ready prepared for an alliance with any foe of Catholicism, and in the eyes of the impoverished town populace—notably in Paris, which had long abandoned the practice of religion—the human organisation of the Church, the hierarchy, the priesthood, and the few but very wealthy religious orders which still lingered on in dwindling numbers, were but a portion of the privileged world which the populace hated and was prepared to destroy.”¹

So, whether of logical and theological necessity, or merely by historical accident, the Revolution and the democratic ideals it stood for came to be associated with hostility to the doctrines and the organisation of the Roman Catholic Church. Democratic thought in France in the nineteenth century came to be in conscious and constant resistance to religious thought. The democratic ideal in France tended to become more and more secular and rationalistic, savouring still of the *Philosophes* of the eighteenth century.

Above all, it remained anti-clerical. The decree of 1790 which established the Civil Constitution of the Clergy exacted from the clergy a Civic Oath, promising to maintain the new régime which had already confiscated large amounts of Church pro-

¹ Hilaire Belloc : *The French Revolution*, p. 231.

perty. The Papacy denounced this Constitution, and the quarrel began. The Reign of Terror brought active attacks on Christianity itself, under the leadership of Robespierre and the Left wing of the Jacobins. And so Jacobinism, of which modern French Radicalism claims to be the direct heir, became irrevocably identified with anti-clerical, and even with anti-religious, movements.

The basic difference between the democratic ideal in France and in England is suggested by the fact that this assimilation of the Church, which France attempted at the end of the eighteenth century, had been achieved in England as early as the sixteenth century. The background of all comparisons between France and England in modern history is the fact that the Reformation triumphed in England but failed in France. The title of "Defender of the Faith" went to Henry VIII, but the work of defending the Faith fell to the French Kings. Whereas the English Monarchy came to be popularly associated internally with the Protestant religion and externally with national independence, the French Monarchy came to be identified with the Catholic religion at home and dynastic aggrandisement abroad: which is why the English Monarchy has survived, whilst the French Monarchy fell with the whole *ancien régime*. The difference is shown not only constitutionally, but also socially and economically. For whereas the

dissolution of the monasteries in England created a large vested interest in favour of the Anglican Church settlement, the dissolution of the monasteries in France created a large vested interest in preserving the secular State.

The democratic ideal in England preceded in time the democratic ideal in France. The English democratic dream has its roots ultimately in the mystical and equalitarian ideals of the seventeenth-century Puritans. It derives its accent of protest from Protestantism. It has its roots in Nonconformity—a powerful movement which easily came to lose its capital letter. The sixteenth-century Wars of Religion in France produced only the “politique” monarchy of a Henry IV and a Richelieu. The seventeenth-century Wars of Religion in England produced the Protestant State. As Dr. Gooch points out, “The great movement of Independency in religion, which was to Calvinism what Calvinism was to Catholicism, only grew up in the interval between the civil wars of France and the civil wars of England.”¹ This was the first important and distinctively democratic movement. Extreme Protestantism taught that just as all men are equal in the eyes of God, so all men should be equal before the law: that is, freedom of conscience should be

¹ G. P. Gooch and H. J. Laski: *English Democratic Ideas in the Seventeenth Century*, p. 17.

allowed, and politically all men, by reason of their manhood, should enjoy equality of freedom and self-expression. In the quaint words of Colonel Rainboro, the seventeenth-century Leveller, "Really, I think the poorest he that is in England hath a life to live as the richest he."

Thus was started in England that set of individualistic, nonconformist tendencies which coloured all politics as well as all religion. It was a movement which could work inside the structure of the Nation-State. It had not the same power of appeal to an external authority and a non-national power that Catholicism had in France. It was a movement, therefore, which had to learn to live inside the framework of a single State, which had to be ready to adapt itself and to tolerate differences which it was at first reluctant to admit. In turn, it made the State and the established Church adapt themselves so as to comprise and tolerate Nonconformity. The eventual result was toleration. But it was toleration without secularisation. It was based on differences of religion, and not on indifference to religion. Also, the forces of national cohesion were very strong. There was enough common ground between Anglican Churchman and Protestant Dissenter, in the realm of economics and politics, to preserve national unity. In France, the gulf between Huguenot and Catholic was so wide, not only in

religious belief but also socially and economically, that the final compromise was not toleration, but separatist privilege—the setting up of territorial enclaves of Huguenot communities (for example, at La Rochelle) which were granted special immunities and political rights by the State. National unity was destroyed. And when efforts to restore unity were made—such as the repeal by Louis XIV of the Edict of Nantes—the result was persecution and “liquidation.” Thenceforth, toleration could come to France not by practical compromise and a process of growing together, but only by the more devious way of secularism, rationalism and Jacobinism.

And so this difference of historical process at last helped to widen the difference between the French and English versions of democracy. The English democrats of the seventeenth century asserted the equality of all men before God. The French democrats of the eighteenth century were more concerned to assert the equality of all men before the tax-gatherer. England came to cherish freedom first and equality afterwards; Frenchmen to cherish equality first and freedom afterwards. Both are individualistic. But there is the contrast between Independency and independence.

A corresponding contrast appears in the purely economic side of the Church settlements in the two countries. The spoils of the monasteries went

mostly to the wealthy landed gentry in England, but mostly to the peasant proprietors in France. Socially this strengthened the squirearchy and hierarchy in England. It reinforced the power of the peasants in France. The Frenchman regards paternalism as no substitute for patrimony. The Englishman is less discriminating. And this difference of outlook is largely the result of historical tendencies such as I have described. National character is shaped by national experience: the national vision of democracy derives from both.

§ 3

It was said above that if the first condition for the flourishing of democracy is this communal vision of the most desirable kind of society, the second is a certain balance between the forces of cohesion in the community and the forces of individualism. The first is psychological, the second is sociological. It is not enough for the ideal community to exist in the minds of men. If it is to be progressively realised, the community in which they actually live must be a homogeneous community. In modern history, it has been found that the prerequisite of democracy is national unity.

National unity in both France and England is, above all, the product of centuries of warfare between

them. Nothing has consolidated each country into a single Nation-State so much as the hostility of the other. The peoples of France and Britain owe to each other, more than to any other people, their present national independence and unity of purpose. Each, in resisting the other or in imitating the other, has found itself.

England and France were the first two countries in Europe to generate a spirit of nationalism and to become Nation-States. And the chief historical reason is that William the Norman conquered England in 1066, and that Frenchmen, under Joan of Arc, had to unite to expel his English successors from French soil some three centuries later. The first event gave feudal England a strong centralised monarchy, under which she grew into a political and social unit, conscious of her unity. The second event, in Professor Trevelyan's words, "evoked a national tradition and sentiment in France which has never since looked back." The political institutions of the Nation-State were developed and consolidated in sixteenth-century England by her Tudor monarchs, and in seventeenth-century France by Richelieu, Mazarin and Louis XIV. In both countries the State may be said to have preceded and moulded national spirit. Whilst the ghosts of the medieval institutions of Holy Roman Empire and Papacy continued to haunt Central Europe, and the policies of

big dynastic Empires continued to dominate Eastern Europe, the States of Western Europe were rapidly developing, inside the strong political framework of their national monarchies, a consciousness of unity, a habit of political independence, and a profound spirit of nationalism. This difference of historical development has brought about certain permanent and very important differences between Western Europe and both Central and Eastern Europe.

It is sometimes said that in Western Europe the tendency has been for the State to create the Nation, in Eastern Europe for the Nation to create the State. In fact, both processes have gone on together everywhere ; but there is some truth in the generalisation. The long survival of the multi-national dynastic Empires of Eastern Europe—Tsarist Russia, the Ottoman Empire in Turkey, Austria-Hungary of the Hapsburgs—made nationalism in Eastern Europe a personal sentiment rather than a political fact. It seems that no Nation is a complete community until it becomes identified with a State. Where a strong popular desire for this identification has been frustrated, or for any reason unduly delayed, nationalism has become a fanatical movement—often an obsession. Nationalism, in short, is a complex and variable thing. It changes meaning with the adjective that is put before it. It is a spirit which

takes its colour and form and significance from the other popular enthusiasms and political institutions associated with it. It is apt to have a different meaning and a different temper in each country.

Nationalist enthusiasm in France, Britain and the United States of America has followed certain definite lines of growth which are similar to each other, but totally unlike those followed by the countries of Central and Eastern Europe. The most striking difference is that in these three countries the problem of political independence and the problem of national unification have appeared chronologically, and therefore logically, as two quite separate problems. In Eastern Europe, it has been impossible to think of them apart. English political independence—a medieval product, as I have already suggested—was decisively asserted in 1588, when the Elizabethan seamen defeated the Spanish Armada. English national unity was achieved by the Revolution Settlement of 1688, which, though leaving the possibility of Jacobite revolts, removed permanently the danger of civil war. In France, the two problems were likewise widely separated in time. Political independence was claimed by Joan of Arc and achieved by the seventeenth century; real national unity became a conscious desire with the rise of Napoleon, and was finally achieved only by the Third Republic of 1875. American independence was won in 1783

—national unity was assured only in 1865. In each of these countries, political unity preceded national unification by at least a century, and in each case a civil war had to be fought, in the interval, in order to produce national unity.

In Eastern Europe, on the other hand, the time-sequence is reversed. A sense of national, racial, and cultural community long preceded the fact of political unity and independence. Freedom from foreign control has been won and almost lost again within living memory. Eastern nationalism is something in origin separate from the State, yet, because of historical circumstances, more fanatical *for* the State. Where political unity is the fact, and national unity the aspiration, the State can be taken for granted. Where national unity is the fact, and political unity the aspiration, the State comes to be something desired for its own sake.

In this way national sentiment in the West has come to be associated with existing institutions and familiar political systems ; with the Parliamentary Monarchy in England, the traditions of the Revolution and the institutions of the Third Republic in France, with the written Federal Constitution in the U.S.A. But nationalist enthusiasm in the East has come to be associated with political movements and parties ; with the army in Poland, Yugoslavia and Turkey, with the Communist Party in Russia. Nor

is this a merely formal difference. It means that nationalism is a more restless, self-conscious, volcanic force in Eastern than in Western Europe.

It has been the fate of Central Europe, standing between these two tendencies, to share the character of each. As in the East, a sense of national unity preceded political independence and unification ; but it was a vaguer, more diffuse sentiment, fostered by Liberal patriots like Mazzini, Garibaldi and the German Liberals of 1848. By 1870 Cavour and Bismarck had utilised this enthusiasm to create a single Government in both Italy and Germany. And it was then, under the cohesive pressure of these political organisations and with the stimulating memories of triumphant wars fought in common, that a more vivid sense of nationality was produced amongst Italian and German citizens. It was associated from the first with the army, because the army was the symbol of national achievement. It was further associated in Italy with the Monarchy of Piedmont, in Germany with the powerful Imperial office of Chancellor : which is one reason why Mussolini has had to retain the Monarchy, and why Hitler is Chancellor and not Emperor. But German and Italian nationalism was more akin to the West than to the East in that it produced, in both countries, larger, more integrated States, and not smaller, more "Balkanic" States. It was com-

prehensive in nature, and expansive rather than exclusive in temper.

It is, then, not mere coincidence that the democratic ideal has flourished in Britain, France and the United States of America, whilst it has scarcely survived in Eastern Europe, and has been completely repudiated in Central Europe. Since the Great War, nationalism in Italy and Germany has allied itself with Fascism and Nazism—both movements for a closer social integration, both embodied in disciplined and highly organised political parties. There has been a new alliance between the force of nationalism and the institutions of dictatorship. It may well be that this phase of development in Italy and Germany corresponds to the period of civil wars in England, France and the U.S.A. It may be that the suppressed civil war, which is called dictatorship, is playing the same rôle in Central Europe which open civil wars played in the West—and that this phase marks the interim period between the achievement of political unity and the achievement of real national unity.

But the importance of this for the development of the democratic ideal in France and Britain, is that in defending themselves against these dictatorships, and in resisting this newer and more restless spirit of nationalism, they have also to defend the democratic ideal itself. It is more important than ever before that both peoples should realise how much the

democratic ideal is their own child : how much it is the product of their common experiences, inseparable from their own national development, and institutions, and outlook. There is all the difference in the world between a "nationalism" which expresses itself in permanent institutions and the rule of law, and a "nationalism" which expresses itself in a political movement, an "all-in" party, and the caprice of a dictator. Nationalism in Germany and Italy is as intensive as that of the East, as expansive as that of the West. Linked to the ambitions of dictators, it has become insatiable. In resisting this spirit, we in Britain will be driven to restate our own democratic ideals. Once again, these ideals will be conditioned by the systems to which they are opposed. And the ideas and institutions which France and Britain created by mutual hostility and imitation, the British Commonwealth is now left to defend alone. It is a very real turning-point in the history of Europe.

It may be repeated, therefore, that in modern history it has been found that national unity is the prerequisite of democracy ; but it must be added that this is true in a very particular sense. The desire for national unity and the achievement of national unity are not, in themselves, necessarily congenial to the working of democracy and the realisation of the democratic dream. The integrating

forces of nationalism must be tempered by other forces before they become congenial to democracy. There must, in short, be a certain balance between the forces of nationalism and the forces of individualism. Democracy established itself in France, Britain and the U.S.A. only because their national development took a particular course, because nationalism in these countries was of a particular temper, and coincided with certain other movements and beliefs which blended with it, modifying its fanaticism and resisting its tendencies to *étatisme*. One of the many reasons why democracy has not established itself in Germany, Italy and other countries of Europe, is that the formative periods of nationalism in these countries have not been periods when liberal or parliamentary ideals prevailed, nor periods dominated by leaders who believed in these ideals. The heyday of European Liberalism is the period 1830-1848. Because the multi-national, dynastic Empires were also despotic States, both Nationalists and Liberals found themselves fighting the same enemies—and therefore came to regard themselves as fighting in the same cause. The problems of political independence and national unification were not separated; and in this period, most Patriots were also Liberals, and even Republicans. But their efforts had failed by the middle of the century, particularly in Italy and Germany. It

is noteworthy that the corresponding democratic movements of these years in the Western countries also failed—Chartism in England and the Second Republic in France. But in both these countries, national independence and unification had already been clearly achieved, and the democratic ideal had taken too firm a hold on the minds of men to be permanently discredited by these failures. Neither of these conditions existed in Italy or Germany.

Even so, there remained the need to conciliate Liberal and democratic opinion in Italy and Germany; and so the new Constitutions which these States adopted after 1870, when they had at last achieved national independence and unity by force of arms, paid considerable lip-service to democratic forms and institutions. The new Italian Government took the form of a Parliamentary Monarchy; the new German Empire had its Reichstag of popularly elected representatives. But it is one thing to set up parliamentary institutions; it is quite another thing to use them as a means of democratic government. It is fatally easy for them either to cease to be democratic, or to cease to provide government. Italy and Germany never solved the problem of making parliamentary institutions serve both ends at once. The Italian and German peoples had not—for a vast complex of historical reasons—grasped the democratic vision: and their

national unity had been too recently acquired to enjoy that precise balance between the forces of cohesion and the forces of disintegration which makes democratic government a possibility.

In Central Europe there existed neither condition which the democratic experiment demands for its success. The extent to which these conditions did exist in France and Britain, and the way in which modern democratic government has grown up in these countries in the last two generations, must next be considered.

CHAPTER II

DEMOCRATIC POLITICS

Il y a moins de différence entre deux députés dont l'un est révolutionnaire et l'autre ne l'est pas, qu'entre deux révolutionnaires, dont l'un est député et l'autre ne l'est pas.

(ROBERT DE JOUVENEL.)

§ 1

NOTHING shows more clearly than the relationships between France and Britain in the last century, how much the two countries "belong together" historically; how parallel are their lines of development, how apt they are to be subject to the same currents of opinion and the same economic forces.

This may seem, at first, a perverse and even totally false statement if one recalls that the last century began with the great series of Revolutionary and Napoleonic Wars between France and Britain: and still more, when it is remembered that whereas Victorian England was one of the most complacent, solid and permanent States in Europe, nineteenth-century France became a by-word for social instability and political fickleness.

Yet, beneath this superficial contrast, lies a deep similarity of growth in economic life, in political ideas and policies, which is of more permanent importance than the differences.

It was suggested in the last chapter that historically the British counterpart to the French Revolution is the American Revolution of 1776. Both events are the expression of that tide of democratic ideals and beliefs which swept through all three countries in the second half of the eighteenth century. Frenchmen of the time recognised this affinity, and supported the American colonists in their revolt not only from political and national hostility to Britain, but also on ideological grounds—from a desire to proclaim and exalt democratic ideals in the world. In this policy, they were joined by Englishmen who were also in protest against the *ancien régime* in England. Lafayette went to America and became an American hero. So did the English Radical, Tom Paine. And after the Bastille fell in July, 1789, it was Tom Paine who, having rushed to Paris when he smelt trouble brewing, received from Lafayette the key of the Bastille to send to George Washington. There was a real continuity, even of personnel, between the two Revolutions, and the leading revolutionaries themselves had no doubt whatever as to the affinities between the two events.

Whilst the English Radicals supported the democratic cause, both Whigs and Tories reacted violently against the French Revolution, and they were strongly reinforced by plain nationalist feeling when it appeared that the revolutionaries intended to spread the Revolution, and with it the domination of France, to the rest of Europe. Tory reaction, egged on by the eloquent if sometimes hysterical voice of Edmund Burke, got the upper hand in England. It delayed for a generation parliamentary reform and other attempts to realise the democratic ideal. But after the Bourbon Restoration in France the two countries assumed a remarkably parallel course of development.

By 1815, France had run the full circle of political experiments—from the Bourbon Monarchy of the *ancien régime* she had passed to the Republic of 1793, and thence, by turbulent stages, to the Empire of Bonaparte. She was now fated, between 1815 and 1870, to repeat in the same order this cycle of experiments. She passed from the Bourbon Monarchy of Louis XVIII and Charles X and the bourgeois Monarchy of Louis Philippe to the Second Republic of 1848, and thence to the Second Empire of Napoleon III in 1852. The reactionary rule of Charles X in France corresponds in nature, no less than in time, to the rule of the Duke of Wellington in Britain. The Revolution of 1830, which brought

Louis Philippe to the throne and the upper middle class to power, corresponds both in nature and in time to the great Reform Bill of 1832. William IV of England and Louis Philippe of France, each of whom ascended his throne in 1830, were plain, respectable, and rather dull little bourgeois kings, who loved to walk about amongst their subjects with umbrellas under their arms. Louis had to embrace Lafayette on the balcony of the City Hall in Paris, wave the tricolour flag of the Revolution, and admit that he was King of the French not only "by the Grace of God," but also by "the Will of the Nation." William IV, two years later, had to agree, under the threat of civil war in the country, to threaten to swamp the House of Lords with new Peers if that body continued to obstruct the Reform Bill which was to give the vote to the middle classes and reorganise the whole basis of the British Constitution.

In 1848 Louis Philippe, in turn, had to give way before that curious union of Republican and Socialist parties, Bonapartist sentiment and popular discontent, which set up the Second Republic. In 1848, the Whig Government of Britain was confronted, likewise, with a similar movement of political radicalism and working-class discontent, in the shape of revived Chartism. Less than two months after the barricades had been thrown up in

Paris, the British Chartists met on Kennington Common, and sent their petition to Parliament in cabs, demanding their famous "Six Points" of ten years before—which were universal suffrage, secret ballot, annual Parliaments, equal electoral districts, payment of Members of Parliament, and abolition of the property qualification for Members. The contrast between the two methods of political agitation is no less striking than the similarity between their aims and the simultaneity of the two movements. Metternich had said that when France sneezed, Europe blew its nose. It certainly seemed true that when France sneezed, England fumbled for her handkerchief.

It should be noted, in passing, that the intention of the Chartist movement was not the liberal, parliamentary kind of purpose which is so often imputed to it. It was the expression not so much of dissatisfaction with Parliament as it had been reformed in 1832, as with Parliaments of any kind. It is often pointed out that all the Six Points of Chartism were in the end achieved—with the minor exception of annual Parliaments. But to the Chartist this was perhaps the most vital point of all, for it would have meant, in effect, direct government by the people, instead of government by Parliament. A House of Commons existing for only one year at a time would have been a body different in function, and not

merely in degree, from the present House. It would have been under the direct control of the electorate ; a mere delegation to carry out a certain policy, and little more. The Charter, as Mr. R. H. Gretton has pointed out, was not "a too early, but sound, proposal for Parliamentary Reform ; it was an attack on Parliamentarism altogether." ¹ In this sense, it was every bit as revolutionary in purpose as the Republican movement of the same time in France. The real difference was not one of purpose, but of method and political tactics.

§ 2

Meanwhile, in both countries, the great forces of the Industrial Revolution were at work. More and more human energy was being diverted from agriculture to industry and trade. The productivity of human energy was being immensely increased by scientific discoveries. The new conditions of work and the new social balance of wealth and power in both countries made it necessary for politics and institutions to adjust themselves to meet new human and social needs. The old comfortable doctrines of *laissez-faire* had to be abandoned, and the State had to undertake the job of finding remedies for new and more perplexing social problems. In

¹ R. H. Gretton : *The King's Majesty*, p. 158.

France and Britain a whole series of socialistic movements grew up—ranging from the humanitarian Socialism of Fourier and Robert Owen, through the moderate Socialism of Louis Blanc and Hyndman, to the revolutionary Communism of Karl Marx. Of these movements only the first and the second, more moderate, ones could be readily grafted on to the national traditions and the democratic ideals of the two countries.

In the period between 1840 and 1870, the most important single theme of politics in both States is the attitude adopted by the wealthier middle classes, already entrenched in power, to the spread of these various socialist movements.

In England, Chartism finally failed in 1848, and the next twenty years brought the domination of Liberal policies and Liberal economic practice. The trades unions benefited from this period of free trade. Britain had so great a lead in industrial development that the advantages of expansion were shared by the trades unions themselves, and political agitation for working-class control of Government dropped into the background so long as prosperity increased. This was the great period of consolidation amongst trades union organisations. The famous Amalgamated Society of Engineers dates from 1851. By 1871 they had gained the passing of the Trade Union Act, legalising workers' organisations, but four years

earlier the Conservative Party had forestalled political agitation by extending the vote to industrial artisans.

In France, the story of Socialism was more violent and erratic. 'The Second Republic of 1848, with its abortive experiments of National Workshops, soon fell into the hands of the Republican Democrats led by the poet Lamartine.' The first great repulse of Socialism came not with the election of the Bonapartist President, who four years later made himself Emperor, but with the defeat of the Paris socialists by General Cavaignac, under the direction of the Republican Government. Napoleon III tried to replace political Socialism by various other schemes for social improvement, which could be more easily reconciled with bourgeois supremacy in politics and the continuation of the Empire. In this he succeeded remarkably well. The Second Empire, as a period of temporary reconciliation between class interests, corresponds to the same years in England ; and, as in England, it was rapid progress and material prosperity which made such reconciliation possible.

In France, this reconciliation was rudely shaken by national defeat in the Franco-Prussian War. The Empire was overthrown and was immediately followed by the Commune of Paris. In this curious and tragic interlude in the history of France, the ideals of democracy and Socialism become inter-mixed. One historian has suggested that the funda-

mental issue between Paris and the rest of France was almost between two different notions of democracy. Of Paris, Canon Brabant writes: "Since 1789 she had been the undisputed ruler of France; every street disturbance aimed at being a political movement. As a bitter Royalist said, she had sent out revolutions by telegraph; in 1871, she was suffering from a sense of inferiority. . . . So she tried to assert her leadership in the approved manner—a rising after the model of 1830 and 1848, but this time it did not come off. The provinces, even those most hostile to Royalism, made no response to the old gestures; their idea of democracy was no longer that of the Convention and the Terror."¹ Repudiated by the rest of France, the capital then adopted the red flag of Marxist Communism, and civil war ensued between the Commune of Paris and the National Assembly, the legal Government of France. Paris was besieged by the French army and the excesses committed by both sides left immense bitterness. The defeat of the Commune meant the immediate discrediting of the Communist ideal and the triumph of the National Assembly. This Assembly proceeded, in the course of the next four years, to set up the Third Republic.

In England, the reconciliation of classes was less

¹ F. H. Brabant: *The Beginning of the Third Republic in France*, p. 147.

rudely shaken. Unrest became Republican rather than Socialist. 'Encouraged by the triumph of Republicanism in France, the smouldering movement in England again became active.' It was widely assumed, in the political thought of the nineteenth century, that a Republic was the natural corollary of democracy and that Queen Victoria would be one of the last of British monarchs. 'When George IV died, a "leader" in *The Times* had said, "There never was an individual less regretted by his fellow-creatures than this deceased King." And the Reform Bill had been regarded as the first stage of a revolution which would lead not only to democracy but to a democratic Republic, for Monarchy seemed incompatible with democracy.' Now, in 1871, the time seemed ripe to promote Republicanism, and in this task many middle-class Radicals joined hands with Socialists. The movement was led by Sir Charles Dilke, John Morley, Frederic Harrison, Joseph Cowen, and even Joseph Chamberlain on the one hand; and by working-class leaders like George Odger and the editors of *Reynolds* and the *Bee-Hive* on the other. By 1873 some fifty Republican Clubs were set up in the country, and a Republican group of Members continued to sit in Parliament for the next twelve years. The movement failed, chiefly because a wave of Imperialist enthusiasm swept over British politics in the last

quarter of the century—encouraged, curiously enough, by certain Radicals, including Joseph Chamberlain; and the Crown became popularly associated with this enthusiasm which Disraeli capitalised on its behalf, whilst identifying the Conservative Party with both. This external diversion saved the Monarchy. And so, by a strange paradox, whilst the National Assembly of France, most of which was monarchist in sentiment, and Thiers, who likewise wanted a constitutional Monarchy, were in process of setting up a Republic, the Radicals in England, many of whom were Republicans, were encouraging forces destined to save the Monarchy.

In the last analysis, both the Third Republic and the British Monarchy survived as political systems because under each system it was possible to find a certain reconciliation of class differences and economic interests. In both, a strong Socialist movement was able to find expression in Parliament, and was of a kind moderate enough to work through democratic machinery. 'In France, the Republican journalist Barberet founded a strong Syndicalist movement, and Paul Brousse a political Labour Party.' French Socialism remained roughly divided into these two wings, the syndical and the political. The one eventually developed into the *Confédération Générale du Travail*, founded in 1895, with the first

article of its constitution declaring that "The elements constituting the C.G.T. will remain independent of all political schools." The other became the parliamentary Socialist Party, and in 1893 had over fifty Deputies elected to the Chamber. Though from the first they were split into various groups—the most distinguished being the Independents, which included Jaurès, Millerand and Viviani—the Socialists tended all to become more and more moderate in their aims and democratic in their methods, whilst the Syndicalists became more extreme in aim and more violent in methods. 'The Syndicalists, confining themselves to economic rather than political activity, turned to "direct action," to strikes, boycott, sabotage.' The Socialists, under the influence of intellectual leadership, confined themselves to discussion and parliamentary procedure. In 1914, there were 102 Socialist Deputies, some Independents, and a large bloc of Radical Socialists who sympathised with them.

It should be noted that this divergence of aim and method was not due simply to difference of leadership, but to a real difference of social appeal.¹ 'The peasant proprietors, the most important single class in France, would not support any movement which seemed to question the rights of private property.

¹ And also because Trades Unions had been prohibited from political activities by the Law of 1884.

Syndicalism was essentially the creed of the industrial workers, the wage-earners of the towns, for they it was who most readily organised themselves into trades unions. But the Socialist Party, dependent upon electoral support, had to enlist provincial support. It tended—as in 1894—to include in its programme reforms which would benefit peasant farmers, small merchants, and the lower middle classes in general. Only so could it ever hope to rival the great French Radical Party, which is essentially the party of the little men, the middle and lower middle class. Agrarian Socialism proved to be very different in temper and in aim from industrial Socialism. In so doing, the Socialist Party lost the support of the C.G.T. as such, and the division between economic action and political action remained clear-cut, save in so far as the Communist Party adopted the policy of sending representatives of its own to Parliament.

‘In England, the development of Socialism in its relationship to Democracy was very different.’ There was no persistent distinction between economic and political activity, and to-day the Trades Union Congress is the chief support of the parliamentary Labour Party. It is perhaps truer to say that the Labour Party is the parliamentary voice of the T.U.C.’ In 1900 the T.U.C. adopted a resolution which is in striking contrast to the policy of the C.G.T. men-

tioned above. It resolved to summon a conference of trades-union, co-operative and socialist bodies, which should "devise ways and means for the securing of an increased number of Labour Members to the next Parliament." The two streams, which in France took different political channels in 1895, flowed together into the one channel in England in 1900. A Labour Representation Committee was formed, and in 1906 it sent twenty-nine Members to Parliament. The years of "Labour Unrest" (1910-1914) mark the efforts of a syndicalist movement, comparable to the French, to split away from the political movement and resort to direct economic action. But the difference was that this movement did not take the trades unions with it, as did its counterpart in France. It resulted, instead, in a positive alliance between the Labour Party and the T.U.C. The chief reason is the virtual alliance between the Labour and Liberal Parties in Parliament between 1906 and 1913, which resulted in the passing of a mass of reform measures.¹ These measures, in effect, turned the trades unions into great national institutions for social insurance. They made trades unions an integral part of the working

¹ Particularly the Trade Disputes Act, 1906; Workmen's Compensation Act, 1907; Old Age Pension Act, 1908; Miners' Eight Hours Act, 1908; Trade Boards Act, 1909; National Insurance Act, 1911; Coal Mines Act, 1912; Trade Union Act, 1913.

British Constitution. They now had everything to lose from social revolution and economic insecurity. It meant that the Labour Party was able to make precisely the same kind of appeal to the organised industrial workers in Britain, which the Socialist Party was able to make to the peasant proprietors and lower middle classes of France : the appeal of improved social and economic conditions, to be achieved by gradual, parliamentary and democratic methods.¹ And just as the peasants are the most important single class in France, so the industrial workers were fast becoming the most important single class in Britain. 'Thus, in both countries, real social solidarity and cohesion were preserved : and they were preserved within the established constitution, and by democratic, constitutional methods.

§ 3

Passing from ideas and movements to political machinery, the parallel growth of democratic institutions in France and Britain is made clearer if it is realised that underneath the bewildering changes of dynasty and constitution in nineteenth-century

¹ The "Short Programme" of the Labour Party, issued in 1937, declared "A Labour Government will prove that, while preserving freedom and respecting the rights of minorities, the democratic system can work swiftly and effectively."

France, there lay a profound continuity of development and even of policy.

In foreign policy the entente with England, which was begun by the restored Bourbons, was continued and developed by Louis Philippe: it was, for example, a Franco-British fleet which helped to assert Belgian independence from Holland in 1833. The Spanish Succession question, though causing considerable tension between them, did not lead to war as it had done in the eighteenth century. Royal visits were arranged between the two countries. Indeed, so much was the July Monarchy identified with British friendship, that the loss of that friendship in 1846 cost Louis his throne within two years. The short-lived Second Republic had every reason to remain friendly with Britain. Just as Louis Philippe, like Charles X before him, fled to England, so the new French President, Louis Napoleon, came from England. Both as President and as Emperor, Louis Napoleon attached the greatest importance to friendly relations with Britain. Again a series of royal visits was arranged. If there was occasional diplomatic friction, there was never war. And when Napoleon, in turn, had to flee to Chislehurst, the Third Republic continued his policy towards Britain, and this culminated in the Anglo-French Entente of 1904. In Franco-British relations, the nineteenth century was as conspicuously and consistently a

period of peace, as the eighteenth century had been a period of war. Even Fashoda did not lead to war.

In economic matters, the policies of successive French governments were equally consistent. The development of industry and international trade proceeded steadily, little affected by the political upheavals. Each government in turn encouraged the adoption of new methods in agriculture and industry. Each promoted international trade, the building of railways, the general aim of material progress and economic prosperity. France clung to her essentially bourgeois ideals, however much she might waver in her political allegiance. Even the methods remain consistent. Napoleon's Paris Exhibitions of 1855 and 1867 have not only their model in the Crystal Palace Exhibition of 1851, but also their counterparts in the later Paris Exhibitions of 1878 and 1937. In social development, such as progress towards a national system of education, France pursued a course as steady as Great Britain throughout the nineteenth century.

Nor is the constitutional development of nineteenth-century France so lacking in continuity as her political eccentricities might suggest. The Constitutional Charter which Louis XVIII issued in June, 1814, not only established the embryo machinery of representative government on the model of Britain, but also embodied nearly all the

great principles first enunciated in the Revolutionary Declaration of the Rights of Man. The power of making laws was given to the King and a Parliament consisting of two houses—a House of Peers chosen by the King, and a Chamber of Deputies elected on a narrow franchise. No subsequent Constitution of France abandoned the essential outlines of this framework of government. Only the King could propose laws, but the Chambers could petition the King ; they had to meet every year, and they were given the right to impeach royal ministers. The first twelve articles of the Charter declared all men equal before the law and in their eligibility for offices in the government and the army ; taxation was to be in proportion to wealth ; personal and religious liberty were guaranteed ; limited freedom of the press was promised. These rights and liberties were infringed from time to time in the course of the next sixty years. But they were never lost sight of as desirable rights, and they could never be violated for long with impunity. They were the living legacy of the Revolution. When the second of the restored Bourbons infringed them by the July Ordinances of 1830, he was promptly expelled ; the Chambers called Louis Philippe to the throne in his place ; and the famous Charter then issued was both in form and in content merely an amended version of the Constitution of 1814. The chief amendments were

the removal of any suggestion of Legitimist Divine Right and royal power to suspend laws, and the insertion of direct guarantees of freedom of the press and the responsibility of ministers to the Chambers. The franchise was extended from those over thirty who paid three hundred francs in direct taxation to those over twenty-five who paid two hundred francs ; but it was still very restricted.

When France wearied of the bourgeois limitations of Louis Philippe he was removed, and the Constitution of the Second Republic marked a further widening of the franchise. The pressure of the democratic ideal—now rapidly blending with the socialist ideal, as has already been described—was a steady and triumphant force. All men over twenty-one were given the vote. The Second Chamber was abolished—but only to be set up again, in the form of a Senate, by Louis Napoleon four years later. The President was also to be elected by popular vote. This excessive enthusiasm for popular election produced a deadlock between President and Assembly, each of whom could claim to have a direct mandate from the people whose “sovereignty” was proclaimed in the preamble to the new Constitution. But when the deadlock was broken by Napoleon’s *coup d’état* in 1852, the reaction against the democratic ideal could not go too far. Even the period of “personal government” of Napoleon III saw the

retention of universal suffrage and the Chamber of Deputies, although their democratic function was frustrated by "managed" elections and by the removal of real power to the Council of State and the Senate. As the text of the Imperial Constitution truly stated, "The Emperor governs *by means of* the Ministers, the Council of State, the Senate, and the Legislative Body."

This retention of the forms of democratic government, moreover, was important. The typical Napoleonic device of getting endorsement for his régime by occasional plebiscites could not for long satisfy a people so politically conscious as the French. They had tasted the experience of trying to reduce the democratic vision to practice, and were not likely to remain indefinitely content with dictatorship. As his foreign adventures and his internal mistakes brought him into difficulties, Napoleon found that organised Liberal opposition was able to express itself in the Chamber. The period of "personal rule" had to give way to the period of the "Liberal Empire." Bit by bit, the Napoleonic restrictions on the powers of the Chamber, freedom of election and freedom of the press were whittled down. Parliamentary institutions recovered their vigour. Popular enthusiasm for a more democratic régime grew stronger. Thiers began to demand "the indispensable liberties." Behind him, too, sounded the voice of organised labour. By the end of 1869,

most of the legislative powers of the Chamber and the Senate, as well as civil and political liberties in the country, had been restored. And when the Empire fell at Sedan, the National Assembly summoned by the emergency Government of National Defence was a direct reversion to the Assembly of 1848. It was the final triumph of Republicanism over the Empire, of democracy over Bonapartism. For this National Assembly proceeded, in slow time, to build the Third Republic.

The Constitution of the Third Republic, as set out in the great constitutional laws of 1873-1875 and as later amended, was the product of the whole of French political experience in the nineteenth century. It may be well, at this point, to state briefly the main features of this Constitution.

The democratic institutions of modern France have not, perhaps, broadened down from precedent to precedent in the plodding, conservative way of the English. But the Constitution of the Third Republic, put together so cautiously and realistically over a period of several years, was instinct with memories of experiments which had been tried and had failed. Unlike its predecessors, it has no doctrinaire preamble asserting the Rights of Man. It begins with the modest resolution of the National Assembly on February 17, 1871, naming M. Thiers "Chief of the Executive Power of the French

Republic." Round this core, with its presupposition of a future Republican constitution, grew the institutions of Parliament. In August, Thiers was given the title of President of the French Republic. His exact relationship to the Assembly was defined by further resolutions from time to time, but it was 1875 before the Senate and the Chamber of Deputies were set up, and their various powers allocated, by the five great Constitutional Laws.

The Chamber of Deputies is a body of 618 men who must be over twenty-five. They are elected on a wide suffrage: all Frenchmen over twenty-one, with a few technical exceptions, have the right to vote. One Deputy is returned from each *arrondissement* with a population of 100,000 or less. The Chamber is elected for a period of four years at a time, and can be dissolved earlier, in a special emergency, by the President with the consent of the Senate. The Senate is a body of 314 men, who must be over forty. They are elected on the same suffrage as the Deputies, but by a method of indirect election. Senators are chosen by departmental colleges of electors composed of the deputies for the department and representatives of the locally elected departmental and communal councils. Senators are elected for nine years at a time, but it is so arranged that only a third of their number has to be replaced at one time. Clearly, the Senate is intended to act as

a check on the democratic tendency of the Chamber. Legislation is the joint task of the two assemblies. There is no provision for settling a deadlock between them. The Senate acts as a revising and delaying body, as does the British House of Lords, but it can positively block legislation. Women suffrage has been repeatedly accepted by the Chamber and turned down by the Senate.

The President of the Republic, nominally the head of the executive power, is chosen for a period of seven years at a time by the Chamber and Senate sitting together at Versailles, when they are said to constitute the National Assembly. He must have a positive majority of the votes of the Assembly. As head of the executive, he presides over the Council of Ministers who are heads of the various departments of State. In practice he does so only occasionally, on important or formal occasions. The President of the effective *Cabinet* Council is, in fact, the Prime Minister. The President of the Republic has tended to assume more and more the dignified rôle of Head of the State, especially in relation to foreign Powers, and his chief rôle is to appear on State occasions. He is Head of the State, rather than the head of the Government. The real executive power, as in Britain, fell to the Prime Minister.¹

¹ The position of the Prime Minister is considered in Chapter V. The Constitution here described ceased to exist on July 10, 1940.

This constitutional machinery was clearly designed under three main influences. The model of the Chamber is the British House of Commons ; the model of the Senate is partly the American Senate, partly the English House of Lords. The President is a curious amalgam of the American President, the British constitutional monarch, and previous French experience. He is elected but, because of the experience of Louis Napoleon, he is not elected by popular vote : he is head of the executive, but ministers are responsible not to him but to the Chambers ; and all his acts have to be countersigned by a minister. France had two models before her, the King of England and the President of America : the one standing above parties and not wielding power directly, the other being both a symbol of national unity and an active politician, wielding great power through his free choice of ministers. Under stress of circumstances they first set up a President somewhat after the American model.¹ But in time he became—under pressure of the recurrent fear of a *coup d'état*—more like the English constitutional monarch. And so the greatest single guiding force was the example of British parliamentarism.

¹ The Assembly—being predominantly monarchist in sentiment—hoped that a strong Presidency would facilitate transition to a monarchy. Thiers told it in 1871, "If you will not cross the Channel with us, then you will have to cross the Atlantic."

Whilst France was reaching her modern Constitution by these turbulent stages, Britain was pursuing a steadier course towards parliamentary democracy. The story of the extension of the franchise in Britain can be told by the chronological series of Reform Bills of 1832, 1867, 1884, 1918, 1928. Each, in turn, extended the vote to new sections of the community. The last two even gave the vote to women on equal terms with men—a step which France has not yet taken at all. This process of progressively taking new classes into a partnership in power is the historic method of British development. Just as the feudal king had co-opted his greater nobles, and then in turn had co-opted the lesser nobles, burgesses and knights of the shire, so, when the greater nobles were weakened, the Tudor monarchs had enlisted the wealthy middle classes, whose help was necessary in government. In the course of the nineteenth century the middle classes, now strongly entrenched in power, co-opted the artisans and working classes. Because of this widening process, Parliament was able to remain the centre of power. Its power grew as it became more representative of public opinion. And the House of Commons, which alone could claim this character of generality, naturally came to be the decisive part of Parliament. The Parliament Act of 1911, one of the few “written” parts of the British Constitution, formally recognised this claim by

destroying the Lords' power over money bills, and reducing their power over other legislation to the right of delaying bills for two years. At the same time, the Commons recognised themselves as more directly answerable to the electorate by providing for a General Election every five years instead of every seven. Civil liberties—such as the rights of free association, freedom of speech and the press—were established by a like process of extension.

§ 4

This brief survey of democratic politics in France and Britain during the last century suggests four general conclusions. First, that in spite of superficial contrasts between the recent history of the two countries, both have been subject not only to the same forces and movements of opinion, but also to simultaneous forces and movements of opinion. Secondly, that the two nations have continued to exert that mutual influence upon one another which we have seen operating in earlier phases of their development; though now by sympathy and imitation more often than by antipathy and war. Thirdly, that although the political temperature-chart of France has fluctuated more violently than the British in recent times, yet the eventual average tendency is in the same direction and on about the same level.

Since 1814 the development of democratic institutions in France has been progressive, but with temporary setbacks. In Britain it has been accumulative ; but it has been, in the long run, the same process. Fourthly, this underlying likeness of tendency and this parallel development must not be allowed to blind us to certain very important differences between them, not only in their visions of democracy, but also in the actual mechanism and working of democracy in the two countries. Having so far emphasised their often neglected likenesses, we must go on to consider the contrasts in their practical applications of the principles of democratic government. These are the principles of ministerial responsibility, the division of powers and the rule of law. The meaning of these principles has changed from time to time : but all three have been regarded as inherent parts of the democratic ideal in both countries. All have been considered essential for that protection of the ordinary citizen against arbitrary power and violence, which is the real aim of democratic government. All have been completely repudiated by the modern totalitarian States.

CHAPTER III

RESPONSIBILITY OF MINISTERS

Le radical, comme le radis simple, est rouge au dehors, blanc au dedans, et se place dans l'assiette au beurre. (ANON.)

§ I

"IN France," writes the great Radical philosopher Alain, "there are a great many radical electors, a certain number of radical deputies, and a very small number of radical ministers; as for the service-chiefs, they are all reactionaries. He who properly understands this has the key to our politics."¹ The essence of radicalism in politics is distrust and control of ministers. "Everything that limits and controls power is democratic or, if you like, radical." All power corrupts. The price of democracy is constant, unremitting watchfulness. The elected member of parliament, far away from his constituency and his local committees, soon comes to be influenced unduly by other deputies, by Paris society in which

¹ Alain: *Éléments d'une Doctrine radicale*, 1925, p. 25. This remark does much to explain the events of July 1940.

he mingles, even by the impersonal corporate traditions of parliament itself. Everything conspires to make him less responsive and less answerable to the sovereign people. "It is well known that a deputy is always less radical in the Chamber than he is to his constituents, and also that a minister is always less radical, as a minister, than he was as an 'interpellateur.' " Even democratic election means that politics tends to fall into the hands of the ambitious, and the ambitious tend to be either vain or unscrupulous. Local control must be vigorously asserted, just as the control of parliament over ministers must, in turn, be assured. This is the gist of typical French radical thought. It is in this sense that modern French radicalism is the direct heir and descendant of Jacobinism. Of the modern Radical Party M. Thibaudet writes, "It is indeed the party of the French Revolution. And the living and lively tradition of France to-day is that of the French Revolution. . . . All the tendencies and all the groups of the French Revolution are still represented amongst our Radicals, and confront one another in their Congresses." ¹

This argument indicates clearly one of the main features of French democracy ; a characteristic which can only be called its provincialism. There is a distrust of Paris, with its aptness to assume control of

¹ A. Thibaudet : *Les Idées politiques de la France*, p. 121.

national politics.¹ There is also the assumption—which is, indeed, Girondin rather than Jacobin—that the real unit of democracy must be the locality. The Chamber of Deputies is still something of a Chamber of Communes, rather than a House of Commons: and the Senate is based directly on the principle of municipal representation in the central government. The deputy is often a mayor in his constituency, or a member of the council of the department. Certainly, it is regarded as part of his duty to get any benefit possible for his locality, whether in the form of public works, or merely in the form of State jobs for his supporters. The names of Herriot and Lyons are inseparable in French politics—he has been Mayor of Lyons for over thirty years, and has proved himself a great local administrator. The building of schools and the planning of the Lyons Fair, model hospitals and model slaughterhouses, above all, the long list of subsidies extracted from the State: these are the achievements which Lyons credits to its popular Mayor. And this is the tendency everywhere in France. So many local authorities have large numbers of Deputies and Senators amongst their members, that meetings of these bodies can only take place when Parliament is not sitting.

¹ It is said, “On ne gouverne que contre Paris,” and “La politique de la France marche avec le brodequin départemental.”

British parliamentarism stands in sharp contrast to this intense provincialism of French politics. The theory of parliamentary representation, as first expounded by Edmund Burke, has remained the accepted theory. In addressing his own constituents at Bristol in 1774, Burke protested against the contemporary radical views of representation, which involved definite instructions to members from their constituents. "Certainly," said Burke, "it ought to be the happiness and glory of a representative to live in the strictest union, the closest correspondence, and the most unreserved communication with his constituents. Their wishes ought to have great weight with him ; their opinion high respect ; their business unremitted attention. . . . But his unbiassed opinion, his mature judgment, his enlightened conscience, he ought not to sacrifice to you. . . . If government were a matter of will upon any side, yours, without question, ought to be superior. But government and legislation are matters of reason and judgment, and not of inclination ; and what sort of reason is that, in which one set of men deliberate, and another decide ; and where those who form the conclusion are perhaps three hundred miles distant from those who hear the arguments ? . . . Parliament is not a congress of ambassadors from different and hostile interests ; which interests each must maintain, as an agent and advocate, against other agents and

advocates ; but Parliament is a deliberative assembly of one nation, with one interest, that of the whole ; where not local purposes, not local prejudices ought to guide, but the general good, resulting from the general reason of the whole. You choose a member indeed ; but when you have chosen him, he is not member of Bristol, but he is a member of Parliament."

How far does this admirable theory of representation still apply to the British Parliament ? On this theory, we have abandoned the effort to keep that effective local control over members which to the French Radical is the essence of democratic government. But have we thereby got the parliamentary government that Burke desired ? Have we even given the individual member that independence of judgment that Burke desired ? Is it not true that the development of powerful, highly organised party machines, occasioned by the steady increase of the electorate, has in fact nullified both the control of Parliament over the ministry, and the independence of judgment of the individual member ? It may well be that Britain, following the lofty and seductive theories of Burke, has lost the reality of democratic government which France, with her more realistic approach to politics, had somehow succeeded in grasping. This question cannot be decided without first considering the most startling of all differences between French and British politics—the

contrast between the multifarious groups of France and the highly organised political parties of Britain. To consider constitutional forms and parliamentary institutions is to study merely the statics of government. The dynamics of government involve a study of party systems, and of the social basis of parties.

§ 2

The splintered groups of France are not simply the product of that local and provincial control already mentioned—although the ascendancy of local politics has no doubt helped to keep parties disintegrated. The existence of so many parties in France is above all the result of her turbulent history during the nineteenth century. This was described in the last chapter.

It is important, for example, that the many social issues raised by the changes of the industrial revolution had to be faced by France whilst the quite different political issues of monarchy and republicanism were still unsettled. In Britain the general structure of government was fixed by 1689, and the future development of politics settled by 1832. The economic reorganisation of society and the need to adjust political machinery to these new needs struck Britain as a distinct set of problems, which her well-established institutions could absorb and assimilate

without serious shock to themselves. In France, these problems first became urgent in the middle half of the nineteenth century, when the whole question of the political régime was still in dispute. Constitutional issues divided the Socialists, Socialism divided the Republicans. Political parties concerned with the two different sets of issues might overlap: there was no reason why they should coincide. As has already been suggested, the Third Republic survived chiefly because it was found that a certain reconciliation of classes could be better achieved under it than under any alternative Constitution. Thiers remarked, "The Republic divides us least." But it all meant that political parties remained unconsolidated. It has been said that "To be fairly judged the Third Republic must be regarded as the hybrid product of two distinct revolutions going on at the same time."¹

It would be of little use to try to analyse the precise purpose of each of the twenty or more groups which revolve so kaleidoscopically in the Chamber and the Senate, for many of them have none. They change not only from one election to another, but they come and go even within the life of one Chamber. The group labels are not the same in the Senate and in the Chamber. The labels under which elections are fought are often quite different from the labels

¹ W. L. Middleton: *The French Political System*, p. 16.

adopted by groups in the Chamber. There are some important parties in the country which are not represented at all in the Chamber. To the Englishman, accustomed to the same party divisions existing at once in the country, the Commons and even in the Lords, there seems to be nothing but confusion. Yet if one penetrates the confusing labels to the underlying movements of opinion, a certain pattern of politics can be discerned. The groups fall roughly into the classification of Right, Centre and Left.

It is sometimes said that France is socially conservative, but has a political bias towards the Left. In so far as this generalisation is true, it is simply another expression of the permanent influence of the French Revolution on French life. France is socially conservative, because the large class of peasant proprietors, *rentiers* and *petits fonctionnaires* are conservative in outlook, and want to preserve the social and economic results of the Revolution. They form the main support of the centre parties. In politics, there is constant anxiety to preserve the Republic and its institutions against attacks from the Right—and the old anti-clericalism is ever apt to reappear. So even conservative parties must pay lip-service to the Revolution, as is seen by their choice of party labels savouring of the Left, no matter what their real policy may be: the Right calls itself "Demo-

cratic" or "Republican" or both. There is what M. Thibaudet¹ has called a *sinistrisme* in French politics, which expresses the Revolutionary tradition.

M. Paul Guérin has described the position well. "Parliament expresses in its composition and in its life the multitude of interests, complexity of religious beliefs and diversity of the country and of individuals. It all results in a much better balance than one might expect. It is by its contradictions, by its very antitheses, that the system survives. For if the spirit of French politics is mobile, its character remains conservative. . . . The régime is a paradox: conservative in pocket, revolutionary at heart, extremist and idealist in its programmes, opportunist and moderate in action, admiring great men but refusing them power, captivated by eloquence and words, but free to change its orators in one wild tussle, little preoccupied with essential problems, yet usually solving them at the last moment, Republicanism *à la française* has nothing quite like it in the world."²

French political life has two constant anxieties: the threat to the Republic from the Right, and the threat to property from the Left. This double anxiety throws politics into a posture of defence, and causes that almost rhythmic swing of the pendulum which has been particularly noticeable since the

¹ A. Thibaudet: *La République des Professeurs* (1927), *passim*.

² Paul Guérin: *Le Problème français* (1939), p. 42 f.

Great War. When it is felt that there is any danger to national security, either from the semi-fascist parties within or from Germany without, opinion swings towards the Left. This happened in 1920, 1925 and 1936. When there is any threat to financial stability, or a too rapid succession of socialistic measures, then opinion swings back again towards the Right. This happened in 1922, 1926, 1932 and 1938. Nor does it suggest any false analogy that the pendulum should always cover the centre more than it covers either extreme, for the Centre parties represent the real, permanent, conservative desires of most Frenchmen. There is a swing of opinion rather than a cleavage of opinion.

These general characteristics of French politics have direct bearing on the problem of ministerial responsibility. This constant movement of opinion, this impatience and distrust of any Ministry which tends to become too powerful or to behave too exclusively, make it desirable that every Government should be made as responsive as possible to Parliament. This is secured in a very effective way by the party system. Every Ministry has to be a coalition, for no single group can ever hope to have a majority of its own. Moreover, every Chamber is elected for four years and is never, in practice, dissolved earlier. It therefore has the Ministry at its mercy. If that particular coalition does not correspond to the balance

of opinion in the Chamber, then it can quickly be adjusted so that it does. In a Chamber bound to continue as a body until its mandate expires, it is essential that this rapid redistribution of political forces should be possible. Parties must retain great freedom of action, and have no incentive to commit themselves too precisely at elections. They must keep their hands free to compromise and negotiate with other groups once they get inside the Chamber, or else no Ministry could ever be formed. There grows up a real divorce between the action of the party in the country and its action in the Chamber. More rigid party-organisation is not desired. There is a tacit general conspiracy to keep every Ministry in direct and immediate dependence on the Chamber.

In securing this, the Chamber is fulfilling one of the tasks entrusted to it by the Constitutional Law of February 1875. Article Six of that Law laid down, "Ministers are collectively responsible to the Chambers for the general policy of the Government, and individually for their personal acts." This collective responsibility is secured by the custom that the whole Ministry must resign if it loses the confidence of the Chamber of Deputies, the test of this being the loss of its majority. It is also secured by the custom since 1896 of resigning if defeated in the Senate. The Senate overthrew the Bourgeois Cabinet on its foreign policy, the Briand Cabinet on its

internal policy, the Herriot Cabinet on its financial policy, the Tardieu Cabinet on its general policy, the Léon Blum Cabinets on their general and financial policies. The precise power of the Senate over Ministries remains in dispute ; it is generally agreed that it is not as great as the Chamber's.¹ Its ambiguous power is tolerated partly because it uses it prudently—standing for the principle that government must be carried on—and partly because it is comforting to have, in emergency, this second line of defence against the irresponsibility of Ministers.

The personal responsibility of Ministers, which the Constitution requires, is provided for in the Constitutional Law of July 1875. Article Twelve declares, "Ministers can be impeached for crimes committed in the exercise of their functions. In this case, they are judged by the Senate." This emergency legal security is again borrowed from the English law of impeachment, in which the House of Lords acts as a court and the House of Commons as the prosecutor. The method has occasionally been used in France in recent times, though the last impeachment in England was in 1805. Ministers are also punishable for civil offences against the State, in financial matters.

¹ M. Blum, when defeated by the Senate in April 1938, told it, "Much as you may desire a change of Government, you have no right to decide it. That belongs to the Chamber, elected by universal suffrage."

The principle that Ministers should be collectively responsible to the House of Commons for their conduct of government has not been laid down in the British Constitution so plainly as in the Constitutional Laws of the Third Republic. Ministerial responsibility in Britain is rather the product of years of parliamentary resistance to Ministers, when they were the King's Ministers. It is secured by the customs rather than by the law of the Constitution. It was a convention established late in the eighteenth century by the peculiar circumstances of the period of Whig resistance to the rule of George III. Cabinet government, as we know it to-day, began only with the establishment and acceptance of a party system. And that was not finally established until the nineteenth century.

In eighteenth-century England, ministerial responsibility was owed politically to the King and legally to the Courts. In theory, a Minister could be accepted or dismissed only by the King, and each Minister separately was personally responsible to the King. All Ministers were in theory equal, and owed no intermediate responsibility to a party or group leader—save perhaps of a purely friendly and private kind. Nor did they owe political responsibility to the constituency for which they sat. Indeed, in so far as important Ministers were usually members of the House of Lords, they had not been elected by

anyone. The only ultimate control which the Commons could assert was after the event—when a Minister's misdeeds had become so notorious that he could be impeached.

The Revolution settlement of 1689 had, however, imposed certain practical limitations upon the working of these theories. Parliament had then decisively asserted its claim to be an indispensable partner in government, and the understanding grew up that the King should always choose his Ministers with regard for their acceptability to Parliament. If not, Parliament could impose certain financial difficulties which would make government almost impossible. The best index of acceptability was whether or not a Ministry could command a majority of votes in Parliament. But how little the implications of ministerial responsibility to Parliament were understood at the beginning of the century is shown by the Act of Settlement of 1701. One clause disqualified Ministers from membership of the Commons. This would have left impeachment or attainder as the only sanction of parliamentary control of Ministers, and another clause declared that royal pardon should not stand in the way of impeachment. The growth of collective responsibility of the Cabinet was directly attacked. It was stipulated that all resolutions taken in the Privy Council were to be signed by all who supported them. The presence of Ministers in the

Commons was regarded as an invasion, not as a guarantee, of political liberty. There was danger that a Minister, masking his actions by the parliamentary support of a subservient majority, might evade the one remaining control, impeachment. This was no empty menace, at a time when ministerial control of royal patronage was added to the personal powers of the Whig oligarchy, and when most Members of Parliament were in practice nominated rather than elected.

So long as it was assumed that Ministers are the King's Ministers, and also that "the King can do no wrong," then it was not unreasonable to argue that the King could not choose wrong Ministers. To oppose Government was to oppose the King: even criticism of Government could be interpreted as criticism of the King. The logical dilemma was solved by the polite fiction which had been inherited from the seventeenth century, that whilst the King could intend no wrong, yet he might be misinformed. Therefore Ministers might be attacked for misinforming the King. The accountability of Government to the country and to Parliament as a whole depends upon this distinction. A pamphleteer of 1747 suggests this gloss upon the old absolutist principle: "The King has the whole executive power of the laws, but he, like all other kings, can act only by his agents; his Ministry execute his will,

but they execute it at their peril ; and in *this* sense he can do no wrong ; . . . if he errs, 'tis the error of his Ministers ; if they do wrong, they are answerable for it."¹ This problem greatly exercised the minds of opposition writers in the reign of George III. "If the king can do no wrong," declares No. 19 of the *North Briton*, "his Ministers may, and are accountable to the people for their conduct." In his famous letter to the King of 1769, "Junius" reminded the King that, were it not for this distinction between King and Ministers, "I know not whether your majesty's condition, or that of the English nation, would deserve most to be lamented."

The systematic political responsibility of Ministers was eventually secured only by the development of a party system. And just as Edmund Burke was the first to formulate the English theory of representation, so he was also the first to expound a complete defence of the party system as a method of representative government. This defence may be briefly quoted, for it is the very basis of the English conception of responsible, representative government.

Burke viewed the problem of government from a standpoint totally different from that of previous thinkers. The old Whigs had supposed that the problem of government was simply to put into power men of great influence who had a natural interest in

¹ *An Address to the Electors of Great Britain* (1747).

the country, and then leave them a more or less free hand to evolve and administer whatever policy they deemed best. William Pitt, and after him George III, had thought that the problem was to decide upon a policy and then find men to support and carry such measures into practice. Both had considered "men" and "measures" as two separate things. Burke refused to distinguish between men and measures. They should be inseparable, in two senses: in the sense that the men responsible for decision of policy should also be responsible for putting the policy into practice; and in the sense that a policy is likely to be adequately carried out only by a body of men who really believe in its general principles. "Measures" of government are not a series of separate acts, but merely the practical applications of certain general principles of public policy. You cannot therefore oppose policy without also opposing the personnel of government. A change of policy demands a change of government. A real change of policy can be effected only by a change in personnel. This seemed a startling and even revolutionary idea to men of that time.¹ Burke was suggesting that it was not only constitutional, but quite natural, for an organised political

¹ Burke's pamphlet, *Thoughts on the Causes of the Present Discontents*, in which he first elaborated these ideas, appeared in 1770 as a party manifesto of the Rockingham Whigs.

party to aim at the complete control of government and the total displacement of the party already in power. This involved surrender of the royal claim to choose Ministers at will. It also involved the institution of "His Majesty's Opposition," and the direct political responsibility of the Ministry to parliament. These constitutional inventions are the greatest and most original contributions of Britain to political science. First evolved in theory by Burke, and in practice by Charles James Fox and the younger Pitt, a regular party system developed in England in the nineteenth century.

It would be misleading to think of a two-party system as the natural or even most desirable form. Indeed, there are few periods in Britain when a clear two-party system has existed. The constant tendency is for parties to adjust and regroup themselves as new political and social issues arise. This they have done in the present century. The coming of the Labour Party as a parliamentary force in 1906 marked the end of even the pretence of a two-party system in Britain. Yet, in spite of the confusion of parties caused by the events of 1931, this country has resisted any tendency to splinter political parties into such multifarious groups as exist in France. The chief reason is the elaborate organisation which all British parties have acquired.

In Britain we are used to the spectacle of one great

party organisation making itself responsible for the forming of local associations in the constituencies, the production of suitable candidates, the running of elections, the conduct of debates in Parliament, and the monopolising of power when it forms a Ministry. Such a concentration of functions and power in the hands of one organisation would alarm the French. To perform so many important and difficult tasks, the party must build up a vast political structure of its own—a machinery and a bureaucracy which it is extremely difficult to keep democratic. Some students of the problem have noted an inherent tendency in all such organisations to become oligarchies, with the real power of decision and control falling more and more into the hands of a small number of active and ambitious men.¹ Power becomes centralised in the party headquarters. "The more extended and the more ramified the official apparatus of the organisations," writes Michels, "the greater the number of its members, the fuller its treasury, and the more widely circulated its press, the less efficient becomes the direct control exercised by the rank and file, and the more is this control replaced by the increasing power of committees."

The disciplinary power of the party organisation over the individual representative is symbolised in

¹ E.g. M. Ostrogorski: *Democracy and the Organization of Political Parties* (1902); R. Michels: *Political Parties* (1916).

the party "Whip." Refusal to support the Ministers in an important vote may mean, for the rank and file Member, denial of access to the party funds at the next election. There is a tendency for all, save the very wealthy or the unambitious, to become obedient yes-men. Even a fairly general revolt of parliamentary members against their ministerial leaders can be checked by the power of the Prime Minister to advise a dissolution of Parliament. The threat of an expensive and uncertain election campaign is enough to deter the fractious in sufficient numbers to preserve a ministerial majority. How can it be said that Ministers with such a power are responsible to a House of Commons in which they can control so obedient a majority? This is the most serious challenge to the defenders of the present system of representative government in Britain.

It is sometimes said that in France there is Parliamentary sovereignty, but in England Cabinet sovereignty. The French Minister who is accountable to the Chamber is made really responsible for his actions. The British Minister, who is only remotely accountable to the electorate, can with impunity wield wide powers of discretion. It was Rousseau who first remarked, "The English people . . . is free only during the election of members of parliament: as soon as they are elected it is enslaved." To make Parliament responsible to the electorate is

to offer little consolation to the democrat, unless we also ensure that Parliament has Ministers at its mercy. In this sense, French government has been undoubtedly more democratic than British : and the Chamber of Deputies has realised, more completely than the House of Commons, the ideal of a truly deliberative assembly depicted by Burke.

§ 3

What are the day-to-day means by which Parliament tries to control the executive in France and in Britain ? M. Barthélemy enumerates three chief ways of parliamentary control in France. There are inquest, question and interpellation. The first, an elaborate inquiry made by a commission of either Chamber into the whole conduct of a Minister, is very rarely used. But it is important as a reserve power. The second may be a simple verbal inquiry, by any member, about any detail of administration : or it may be a formal printed question and answer in the *Journal officiel*. Printed questions may run into some five thousand a year, and may often be about trivialities. The most formidable method of all is interpellation. This empowers any member to make the government explain either single decisions, or its general policy, in open parliamentary debate. It lets all parties, including the Ministers, ventilate their

opinions. And the vote on the *ordre du jour* with which it ends is a regular test of the extent of parliamentary confidence in the government.

Even more effective and regular means of control are the parliamentary committees. By 1920, twenty permanent committees of the Chamber had been set up, covering between them most subjects of legislation. Each has forty-four members, representing all parliamentary groups in proportion to their strength in the Chamber. Originally simply organs of criticism and advice in the formulation of bills, they have gradually become weapons for controlling the whole action of government. Each Minister has to face not only the Chamber as a body, but a miniature "Chamber" of men who specialise in criticism of his own department and its activities. He then has to face the Senate and the corresponding committee there. He is not likely to behave irresponsibly. The attitude of the committee may range from one of helpful co-operation to one of hostility : that will depend chiefly on the efficiency and tact of the Minister himself. Such committees may even assume powers so exorbitant as to be a menace to smooth and efficient government.¹ But their existence means that the Chamber has kept in its own hands far more power over government than has the House of Commons.

¹ For further discussion of this method of control, see W. L. Middleton, *The French Political System*, Chapter VII.

Corresponding facilities in the British House of Commons are much less stringent. Subject to certain conditions, any Member may address a question to a Minister concerning anything which comes within the scope of his department. Notice of the question must be given at least one day beforehand, so that the answer may be carefully prepared by the civil servants of the appropriate department. The Minister may decline to answer, if to reply would be "contrary to the public interest." The nearest British approach to the interpellation is the motion "to adjourn for the purpose of discussing a definite matter of urgent importance." If forty or more Members support the motion a debate takes place, nominally on the motion to adjourn, but actually on the subject which occasioned the motion : and if the motion is carried the Minister concerned, or perhaps even the whole Government, is expected to resign. The method is seldom used, and is a less deadly weapon than the French interpellation. More usual is the vote of censure, moved against an individual Minister, or a vote of no confidence moved against the whole Ministry. Both may result in resignation or a dissolution. Because both are regarded as drastic measures, they are used sparingly, and only when there is a real likelihood of their succeeding. Equally sparing is the use of a special committee of investigation, which the Commons may set up to

inquire into executive acts or policies. Even when used, the *ad hoc* nature of the committee makes it a different power from the permanent, experienced committees of the French Chamber and Senate.

Summarily, then, it may be said that there is a consistent contrast between the interpretation of "ministerial responsibility" in France, and the meaning of that principle in Britain. In theory, there is the contrast between the Radical conceptions of Alain and the Liberal theories of Burke. Politically, there is the contrast between the fluid, mobile group-system of France, and the more rigid, disciplined party-system of Britain. Legally, there is the contrast between the precise stipulations laid down by the Constitutional Laws, and the vaguer understandings and customs built up in the conventions of the British Constitution. Constitutionally, there is the contrast between the merciless powers of control wielded by the Chambers and the milder rights of criticism wielded by the House of Commons. The total effect of these contrasts is to make French Ministers directly responsible to Parliament, even at the expense of stable government ; to make British government strong and stable, even at the risk of ministerial irresponsibility.

It may even be suggested that the Chamber and the House of Commons perform two fundamentally different functions. The French electorate chooses

a Chamber of Deputies in a certain ratio of parties : it does not attempt to choose the executive, but hopes that the Chamber it returns will throw up a Ministry of a particular shade of opinion. A general election in Britain, on the other hand, is essentially a plebiscite of personality—a choice between rival executives. The return of a Commons in any particular ratio of opinion, other than a crude majority for the support of one particular executive, is hardly considered.

It is undoubtedly true that different considerations of this kind usually exist during elections in the two countries. The difference of party system means that issues are presented to the voter in different ways. But the contrast between the two political systems must not be drawn too sharply. There are moderating factors on both sides. In France, Ministers change less often than Ministries. A Cabinet crisis often means a reshuffle of personnel : it seldom means a new deal. Where continuity of policy is desirable—as in foreign affairs or national defence—it is ensured by keeping the same man in power for many years at a time. Delcassé and Briand each remained at the Foreign Office continuously for nearly seven years. The number of men suitable to be Ministers is limited, and there is a real continuity of personnel. In Britain, on the other hand, the existence of elaborate party organisation works

against the Ministry, as well as in its favour; for the Opposition, too, is highly disciplined. The pressure of an organised Opposition helps to moderate the use which a Ministry makes of the threat to dissolve. A frivolous dissolution would do much to discredit the Ministry at the election, for the country, no less than the candidates, dislikes too frequent elections. To dissolve merely in order to discipline Members of Parliament would do much to strengthen opposition. But even when these moderating factors have been allowed for, it remains true that the two conceptions of ministerial responsibility are widely different.

Of the British Parliament, Sir Courtenay Ilbert has written, "Parliament does not govern, and is not intended to govern. A strong executive government, tempered and controlled by constant, vigilant, and representative criticism, is the ideal at which parliamentary institutions aim."¹ "Ministerial stability," writes M. Barthélemy, "is an advantage only when it is not exaggerated. The minister is, in effect, the controller of the bureaucracy, so he must not have the same outlook that it has; yet this is what he could not fail to have if he were always in power. There must be constant vigilance by parliamentary control and the threat of dismissal. . . . In these conditions, a certain ministerial instability offers

¹ Sir C. Ilbert: *Parliament*, p. 119.

more advantages than it offers inconveniences.”¹ That is the characteristic difference of emphasis between the British and French systems.

The war-time reactions of France and Britain to the sudden need for strong government and decisive action reflect this difference of outlook. France compensated for her normal ministerial instability by the immediate drastic surrender of discretionary powers to the government. The Plenary Powers Bill of November 30, 1939, giving the Prime Minister unlimited powers to govern by decree, passed the Chamber by 318 votes to 175, with 64 abstentions. It passed the Senate by 259 to 23. During the debates in the Chamber, opposition to the idea of government by decree came from both the Socialists and from the Right, but the Centre got its way. This drastic surrender was counterbalanced, on February 24, 1940, by the formation of a new parliamentary group called *L'Union démocratique*, with the aims of defending, for the duration of the war, parliamentary institutions and civil liberties, and of keeping the Prime Minister informed of parliamentary opinion on such matters as censorship, parliamentary control, and the political and legal rights of the people of France. In Britain no such radical surrender of power was immediately necessary. An Emergency Powers (Defence) Act was

¹ J. Barthélemy : *Le Gouvernement de la France* (1939), p. 122.

passed at the beginning of the war, but for the first eight months the large reserves of power enjoyed by the executive, in the right of the Privy Council to issue "Orders in Council," proved sufficient. In May 1940, the Opposition forced the resignation of Mr. Chamberlain, and Mr. Churchill proceeded to form a Ministry drawn from all parties. It gained a vote of confidence in the Commons by 381 votes to none. By the extension of the Emergency Powers Act on May 22, the Government was given almost absolute power over the persons and property of all citizens. It became constitutional to make, by Order in Council, "such Defence Regulations making provision for requiring persons to place themselves, their services, and their property at the disposal of His Majesty, as appear to him to be necessary or expedient for securing the public safety, the defence of the Realm, the maintenance of public order, or the efficient prosecution of any war in which His Majesty may be engaged, or for maintaining supplies or services essential to the life of the community." The only control retained by Parliament was the right to annul any Defence Regulation of which it disapproved. In this way both countries converted themselves, by constitutional methods, into authoritarian States for the conduct of the war: believing that formal parliamentary grant of such powers was preferable to piecemeal assumption of them by the Government.

CHAPTER IV

SEPARATION OF POWERS

La Démocratie n'existe point par elle-même. Et je crois bien que dans toute constitution il y a de la monarchie, de l'oligarchie, de la démocratie, mais plus ou moins équilibrées. (ALAIN.)

§ 1

It has become a platitude that the constitutional development of France and the United States of America was deeply influenced by the strange misinterpretation of the British Constitution which the Baron de Montesquieu made popular in the eighteenth century. It has not been so clearly understood that this influence was intensified by the persistent mis-translation of what Montesquieu himself wrote.

He wrote not of the "separation of powers" but of *la distribution des trois pouvoirs*. He declared, *Pour qu'on ne puisse abuser du pouvoir, il faut que, par la disposition des choses, le pouvoir arrête le pouvoir*. He wanted a balance of powers—a system of checks and balances—and he did not suggest that this involved a complete separation of the legislative, executive and judicial functions of government, with the exclusive

allocation of each to a separate group of men.¹ Indeed, the three authorities could scarcely act as a check upon one another unless the scope of their activities to some extent overlapped. Montesquieu was simply contending that if all functions of government were monopolised by one group of men, liberty was destroyed. They must be distributed amongst at least three authorities, each of which would then check and limit the discretionary powers of the others. It was a sound principle of constitutional development, which was distorted in translation and in its unintelligent application to other countries. A shrewd instinct has made lovers of the democratic ideal cling to the principle, in spite of its perversions. It is the most powerful and most obvious antidote to the totalitarian State. Its essence is a constitutional balance of power.

The principle of "separation of powers" has always, in this country, been tempered and modified by the somewhat contradictory principle of "concentration of responsibility." The very process of securing ministerial responsibility has made possible—and almost desirable—the concentration of power in the hands of Ministers: better that all power

¹ It should be noted, too, that Montesquieu uses "executive" only in the sense of the authority in charge of external policy. The administration of internal affairs in his conception seems to be divided between legislature and judiciary. See *L'Esprit des Lois*, Book XI, Chapter VI.

should be in the hands of Ministers who can be dismissed, than dispersed amongst persons less responsible.

Indeed, the principle of concentration of power and responsibility is inherent in the constitutional development of Britain. It is a part of that early unification already noted.¹ We tend nowadays to think of centralised power as being an irresponsible power. Our own history shows the opposite to be true. When power was split up amongst great feudal nobles, it was used arbitrarily and often irresponsibly. Power in this country has been made responsible by being centralised. Liberty has grown with the rise of a central power which had no rival to fear. By the end of the thirteenth century, the common, national law evolved by the King's courts had supplanted baronial jurisdiction. That was the first stage of integration. In France, royal jurisdiction took three hundred years longer to get the same amount of authority. Even when a baronial fief did fall to the King, it was often granted a local *parlement* with powers of its own. It was still impossible to produce a uniform system of law for the whole kingdom. Government remained irresponsible because it was not centralised enough. The more political power was diffused throughout the State, and the longer intermediate powers were

¹ Page 14, above.

allowed to exist between King and people, the wider were the powers of discretion which the central government had to assert, in order to curb its "overmighty subjects." Diffused force produced arbitrary power.

The importance of the Tudor monarchs in English history is that they drew the teeth of feudalism and provided England with a strong central government. The importance of Louis XIV in French history is that he failed to do this. His superficial centralisation only caused further confusion in the feudal jungle which he failed to clear. A vast tangle of competing jurisdictions and local immunities lasted down to the French Revolution itself. It is not far-fetched to see the roots of the provincialism of modern French politics in the prolonged survival of these great local differences.

The results of this difference of development are very far-reaching. It is the chief reason why British law is so different from French law. In Britain, the common law gained coherence and unity by the accumulation of piecemeal judicial decision. It grew, by a process of accretion, over a long period of time. When uniformity was at last introduced into French law, it came through codifiers such as Napoleon. In the same way centralisation, when it did come, was all the more absolute because of the delay in its achievement. The sequence of events

in the two countries is reversed. England begins modern history with a strong central government, which comes to be limited and controlled in various ways. France begins with a weak central government, and it is only some two and a half centuries later, with the French Revolution and Napoleon, that she finds a really strong central government capable of producing a uniform system of administration and law for the whole realm. Devotees of the democratic ideal in France, confronted with these facts, had therefore to devise stringent methods of controlling this central power. The two answers they found were the "separation of powers" within that central authority itself, and the principle of popular consent to government, expressed through electoral representation.

These devices, adopted and tried out deliberately by the French people, already existed indigenously in the English Constitution. From the first, the degree of centralisation achieved by the Tudors was moderated in action by two interconnected factors. One was that the authority into whose hands this power was drawn was a composite and not a single body. The sovereign power in England was not simply the King but, in the phrase of the lawyers, "the King in his Council in his Parliament." The precise distribution of power amongst the three elements of this combination was a matter which

could later be determined by constitutional conflict—though that conflict included, as it turned out, civil war. The second moderating factor was that the English monarch had no large force of professional soldiers, police or administrators at his command. Until just over a century ago government in England was so relatively simple in character and so limited in scope that it could quite adequately be carried on by unpaid amateurs. “The affairs of the parish were managed by farmers or other villagers, often chosen by the Vestry; the affairs of the little town were managed by groups of tradesmen in their close corporations; the affairs of the counties, and the general maintenance of order, were in the hands of ordinary country gentlemen, acting as Justices of the Peace, and meeting in Quarter Sessions; and, finally, the affairs of the State as a whole were managed by a group of Ministers, drawn from the governing class of great landowners, and from the lawyers and the naval and military officers, who mainly came from the same class.”¹

Britain clung to her faith in government by the “talented amateur,” even though he was not always very talented. But most European countries, including France, were by the eighteenth century fully equipped with a large salaried class of full-time, professional administrators. These governments

¹ Ramsay Muir: *How Britain is Governed* (1930), p. 38.

had, behind them, the force of large standing armies. This accumulation of force was necessary to preserve the unity of the State against the various centrifugal forces which were still strong. The whole apparatus of government was different in Britain. She could afford to be different because she had greater natural cohesion, which she owed to her earlier unification and the accepted supremacy of her common law. When she was driven, by changed circumstances, to adopt the administrative apparatus of continental governments, she did so with much misgiving and with a constant anxiety to preserve, as much as possible, her old reliance upon the talented amateur. "Officialdom" and "bureaucracy" are still words of abuse in England, in a sense which is almost unknown in the rest of Europe. This difference of development, again, has coloured the whole conception of the democratic ideal in England and France. Some of the ways in which it has done so may now be considered.

§ 2

Until quite recent times the British citizen was expected by his Constitution to be a versatile creature. It was taken for granted that each citizen owed personal active service to the community in various ways, according to his place in the social hierarchy.

The duties of local administration fell upon the country gentry. The ordinary citizen, besides contributing to the expenses of government, was expected to perform various personal services. He had to sit on juries. He had to join the Militia of his county, when need be. He had to help in the actual capture of law-breakers by joining in the hue-and-cry when this was raised by the local constable—who was usually, too, an unpaid officer. The citizen, in short, had to be prepared to act as his own administrator, his own politician, his own soldier, and his own policeman, as the need arose.

But the developments of the last century deprived the ordinary citizen of much of his versatility. The enormous growth of population, together with the immense increase in the scope of government and in the complexity of its problems, have involved the invasion of the expert into politics, the expulsion of the amateur. The stipendiary magistrate has tended to replace the amateur Justice of the Peace. The Member of Parliament draws a salary, though this development was the last of all and did not take place until 1911. Since 1829 we have built up a large, trained police force to catch our criminals for us ; and the diversity of their other duties is being increased every year. We have created a large standing army to do our fighting for us, and to this have been added the professional services of the

Navy and the Air Force. The new extent of government activities has produced, too, a vast, specially trained and highly paid Civil Service. The number of people employed in it multiplied fifteen times between 1832 and 1932. The ordinary citizen, forced to concentrate more and more intensively upon earning a living by specialised work, has been reduced to the rank of a payer of rates and taxes—an employer of a great number of professional administrators, professional fighters, and professional politicians. The versatile citizen has become primarily a member of the passive public.

This tendency has been distrusted and resisted at each stage by those who clung to the democratic ideal. It was opposed on the grounds that it diminishes the freedom of the ordinary citizen, and puts undue power in the hands of the Government. Throughout the eighteenth century, the maintenance of a standing army was resisted on these grounds. When Sir Robert Peel was trying to get an adequate police force set up, a Parliamentary Committee of 1822 reported, "It is difficult to reconcile an effective system of police with that perfect freedom of action and exemption from interference which are the great privilege and blessing of society in this country." The new system had to be proved by its success before it became generally accepted.

There seemed to English democrats only one way

to reconcile the personal freedom of the ordinary citizen with the granting of this immense power to the Government: the persons in power had to be made politically responsible to the community in as systematic a way as possible. The citizen, no longer required to conduct administration himself, must now be given control over the experts he has to employ. True, the citizen was still expected to be versatile enough to give jury-service occasionally, and to run his own local government. He had also to be prepared to act as his own soldier in times of national emergency. But now his main political duty was to pay rates and taxes: his main political privilege was to help to choose his Government at a General Election. This change, and the corresponding political reforms described in the last chapter, should not be regarded as steps whereby eighteenth-century England gradually adjusted itself to meet nineteenth-century needs. They mark, rather, the death of eighteenth-century England, and the birth of a completely new kind of State. They produced a State in which the democratic ideal had to find new and more deliberate methods of operation.

In a State administered chiefly by self-help, power is naturally diffused because the voluntary co-operation of most citizens has to be ensured. In a State administered by a powerful official class, there arise

for the democrat two constitutional problems : how political power may best be allocated to the different organs of government, so as to preserve it from abuse ; and how these organs may then be made systematically responsible to the general body of citizens, whose affairs they govern, and whose wishes must be taken into account in deciding policy. English democratic movements have concerned themselves mostly with the second of these problems, and have not become acutely sensitive to the first. The tendency is to regard the first as having been satisfactorily settled in the seventeenth and eighteenth centuries, by the triumph of Parliament over the King. The separation of powers had ceased to be a live issue long before the problem of democratic control of government arose at all. They have therefore been thought of, in England, as two separate problems.

The eighteenth-century Constitution had begun with a clear assertion of the principle of separation of powers, in the Act of Settlement already mentioned.¹ One clause stipulated that Ministers should not sit in the Commons. Another provided that judges, once appointed, should be irremovable except on an address from both Houses of Parliament. The intention, clearly, was to keep executive, legislature and judiciary as separate as possible.

¹ Page 64, above.

Whereas the first separation of power was soon abandoned, the second remains the law of the land : though it means little more than that judges ought not to be subject to steady governmental control. Far from being completely separate from executive and legislature, judges are, in fact, appointed by the Lord Chancellor, who is a member of "the Government," a party man who changes when the Government loses its parliamentary majority. Even if High Court judges have independence and security of tenure, County Court judges can be dismissed at will by the Lord Chancellor. Judges have not, like American judges, the power to declare any law "unconstitutional," and so have no check on the executive. Any judicial decision can be reversed by the House of Lords, which is the highest court of appeal, and its decision, in turn, can be reversed by Act of Parliament. (This process took place in the famous Free Church of Scotland case in 1904.) In short, such real independence as the judiciary enjoys in Britain is due less to any constitutional arrangement of checks and balances, than to the professional pride of judges and lawyers, the personal integrity of the men concerned, traditional respect even amongst politicians for the law and its officers, and the ultimate fear on the part of an elected government that to interfere too blatantly with the normal administration of justice would so shock

public opinion as to endanger their own chances of re-election.

The chief feature of the relationship between legislature and executive in Britain, as has already been suggested, is that the real control of both is normally in the hands of the same group of men. The rise of party government has entailed this ; nor has this process of concentration of power been greatly resisted, so long as the electorate is assured the chance of changing this group of men at the next election. Responsibility of Ministers is what really matters. Britain, from whose Constitution the principle of "separation of powers" was first supposed to be derived, has of all democratic States abandoned it most.

In France, the two problems of "separation of powers" and of democratic control of these powers clamoured for consideration simultaneously, and therefore never came to be thought of apart. Both seemed essential and interlocked parts of the democratic ideal. The Constitution of 1791, embodying the Declaration of the Rights of Man, stated, "Every society in which guarantees of rights are not assured and the separation of powers is not fixed, is without a Constitution." Article Nineteen of the Constitution of the Second Republic even asserted the more extreme doctrine : "The separation of powers is the first condition of a free government."

The Constitution of the Third Republic, which was modelled on the practice rather than on the misinterpreted theory of the British Constitution, was content to accept the separation of powers in a much less doctrinaire form. The President is elected by the National Assembly, but has security of tenure for seven years. The Chamber also has security of tenure for four years, although it can, constitutionally, be dissolved by the President with the Senate's consent. The administration of justice is entrusted to two kinds of jurisdiction—to judicial tribunals and administrative tribunals. The first judge all civil and criminal cases between private citizens. The second are concerned with any case in which the State or the public services are involved. The head of the first is the *Cour de cassation*, of the second the *Conseil d'État*. A special *Tribunal des Conflits* decides to which jurisdiction any disputed case shall go. All judges are appointed nominally by the President—actually, by the Minister of Justice—and once appointed, they have security of tenure. The Senate, by the Constitutional Law of February 1875, can become a court to try the President or a Minister, or any case of attack upon the security of the State.

§ 3

The existence of administrative jurisdiction separate from the common law courts is one of the most famous differences between French and English law. The idea of a special *droit administratif* has always alarmed Englishmen, for it seems to be the denial of the very basis of "the rule of law," as well as making for irresponsibility of Ministers. Professor Dicey pointed out that administrative jurisdiction is based on two general ideas, both alien to English law.¹ The first is the notion that the Government, and every servant of the Government, has a whole body of special rights and privileges as against private citizens ; so that the citizen dealing with the State or its agents stands on a very different footing from the citizen dealing with another citizen. (This idea will be considered more relevantly in the next chapter.) The second is the need to preserve the "separation of powers," and may be briefly considered here.

It has been seen that to the Englishman, the "separation of powers" means, in practice, little more than "the independence of the judges" : and means even that in only a very modified form. To the Frenchman, it means not only judges independent of the Government, but also that the Government

¹ A. V. Dicey : *The Law of the Constitution*, Chapter XII.

and its officials, whilst acting officially, should be independent of the judges and free from the jurisdiction of the ordinary courts. It is the logical application of the principle of "separation of powers." And again it is an application which the democratic ideal in Britain has rejected. It is precisely because a large official class is much newer here than in France, that it is regarded with greater suspicion. No fact illustrates more clearly the different background of the democratic ideal in the two countries.

The Englishman tends to approach the idea of administrative tribunals from one viewpoint only: they appear simply as special courts in which the Government reserves the right to act as judge in all disputes concerning itself. They therefore seem to be flagrant denials of the rule that nobody should act as judge in his own cause. The Frenchman, however, will insist that disputes between one citizen and another *are* in their nature essentially different from disputes between a citizen and the State. There is a danger that the ordinary judge will be intimidated in pronouncing any judgment against the State. "Administrative jurisdiction, being inside the administration, is much more fearless in forcing it to pay respect to judicial rules." Thus argues M. Barthélemy.¹ Countries, he argues, which have no administrative jurisdiction are apt to have very

¹ *Le Gouvernement de la France*, Chapter X.

little administrative justice. The *Conseil d'État*, which is the chief court of administrative law, has become the greatest defender of individual rights, liberty and property against the administration, and the only means of redressing injustices committed by the State. The failure to admit that the State can commit an injustice and can therefore be sued, and the failure to provide special courts which are competent to try such cases, may indeed permit grave injustices, as English lawyers are aware.¹ Administrative tribunals, freed from the interference of the ordinary courts, date from the Revolution in France, and in origin were undoubtedly intended to work in favour of the Government. But whether they now act in favour of the individual depends upon three factors: upon the constitution of the *Tribunal des Conflits*, the attitude of the *Conseil d'État*, and the independence of the judges who sit on the administrative tribunals. Are they judicial bodies, concerned primarily with interpreting the law and securing protection for the citizen against the arbitrary power of the Government? Or are they official bodies, concerned with preserving the privileges of the administration and the security of the State? That is the crucial question in determining their value to the democratic ideal.

¹ See, for example, the famous instances cited by Professor Laski in *The Foundations of Sovereignty and other Essays*.

The President of both the *Conseil d'État* and the *Tribunal des Conflits* is the Minister of Justice—a party man, like the Lord Chancellor in Britain. Members of the *Conseil* are appointed nominally by the President of the Republic, and therefore, in fact, by the Government. They are recruited mainly by open competition, and in practice are seldom removed. The *Tribunal* includes five representatives of the *Conseil* and five of the *Cour de Cassation*. The members of the administrative courts are nominally officials appointed by the Government—but again they have, in fact, considerable security of tenure and behave with great independence of judgment. The tendency within the last generation has been to allow the holders of administrative jurisdiction the same freedom of judgment as the judges of the civil courts, and to distinguish clearly their special judicial functions from the wider administrative duties of the whole *Conseil d'État*. They have therefore acquired professional pride and integrity. The judgments of administrative courts show no persistent bias in favour of the State as against the individual. The guarantee that this satisfactory condition will continue may seem very tenuous. The characteristic French attitude is that this potential weapon of ministerial irresponsibility matters little : it is necessary to preserve strong and stable government, and the executive may well be allowed wide

powers, so long as the Chamber immediately, and the electorate ultimately, can overthrow the executive with ease. It is the same difference of emphasis which we have already noted between Britain and France. Britain is primarily concerned with ministerial responsibility, France with the separation of powers. But in both countries the two principles are closely intertwined, and it is their interaction which is really important for the democratic ideal.

§ 4

Almost every other question of administration which involves the problem of the diffusion or concentration of power in the State is settled by the two countries in the same characteristic ways, and betrays the same difference of historical development. Three illustrations will suffice.

Local government is a particularly good example. In France, there is the legacy of autocratic centralisation bequeathed by Napoleon. In Britain, there still remains the old natural diffusion of authority which was entailed in the lack of a centralised bureaucracy. French local government puts far less trust in electoral machinery than does British. The largest unit, the *Département*, is governed by a *Préfet* appointed from Paris. Inside the *Département*, each *Arrondissement* is governed by a *Sous-préfet*, under the

orders of the *Préfet*, and also appointed from Paris. Under the *Préfet* too are the Communes, and here at last is an elected official, the *Maire*, who is chosen by the local council of the Commune. In each *Département* there is a General Council, popularly elected, whose chief function is to advise the *Préfet* : and in each *Arrondissement* a similarly elected but powerless Council. The really live democratic unit is the Commune.¹ It seems, to the Englishman, the one mitigating element in the general dictatorship of the Minister of the Interior over the whole local government of France. This centralisation has been preserved in democratic France partly because her political instability in the last century made every Government reluctant to abandon its chief means of keeping order and overcoming disaffection ; partly because this formal centralisation is compensated by that regionalism of French politics which has been already noted, and which permeates even the central government ; but above all, because Frenchmen approach the problem of distribution of power in a particular way. The important thing is to keep Ministers directly responsive to popular will, for that is what "sovereignty of the people" means. But,

¹ See p. 53, above. It should be noted that the very large towns—Paris, Lyons, Marseilles—have special constitutions. Since 1884 there has been a real decentralisation of power, particularly to the Commune, and the Napoleonic legacy must not be exaggerated.

when once this responsiveness has been guaranteed, Ministers should be allowed very wide powers, for that is what government means. The Frenchman has little desire to take an active part himself in the work of governing. He does not want to interfere at every point, and does not trouble to reserve himself the right to interfere. It is the job of his Deputy, whom he returns to Parliament, to do that for him, and to keep a constant and watchful eye on Ministers. Apart from that—the nation must be strong and unified, and how can you get that without centralisation of power? You can separate legislative and judicial powers from the executive as much as possible : but you must still leave Ministers power enough to govern efficiently.

England has preserved her old divisions of local government. The units of government remain essentially the County and the Borough, the units of the Middle Ages. Urban and Rural Districts have been created, and all units have Councils elected by ratepayers. These Councils have wide powers over many matters which intimately concern the everyday life of the citizen. They are responsible for the upkeep of roads, lighting, and often for housing. They organise schools, libraries, museums, swimming-baths, sanitation. As the scope of their activities widens, they have often to depend on grants from the central government to perform them, and there

has to be closer co-ordination by the relevant department of the Government. But there remains immense local variation, and in no respect has the uniformity or the central control of France been rivalled. This decentralisation has been preserved in democratic England partly because her great political stability of the last century made it possible ; partly because the principle of popular election seemed the only way to control the alarming new class of experts which was fast increasing ; but above all, because Englishmen believe that central sovereignty should be offset by local diversity. To the Englishman it is natural, in a democracy, for power to be diffused locally. Centralisation is the hall-mark of a dictatorship—look at France under Napoleon. Democracy means self-help, and being prepared to take a part in government yourself. It would be a strange democracy which lets a man vote in national politics, which are so complicated, but deprives him of any real say in local things, which he can grasp more easily.

The educational ideals of the two countries betray a similar difference of outlook. Both agree that few matters can be more important to the realisation of the democratic ideal than an adequate system of education. It is therefore, say many Frenchmen, clearly a matter of national importance, and must be controlled by the Government of the

Republic. France should have a unified system of education for the whole nation, otherwise sinister interests and disruptive forces will creep in, and will try to capture this important means of moulding public opinion, with a view to overthrowing the Republic. One of the highest signs of Republican unity must be *l'École unique*—one vast, uniform system, with the ordinary little elementary school at the base of the pyramid and the universities at the apex, and complete facilities for all able citizens to rise from base to apex, regardless of parentage or wealth. That, surely, will be the very essence of the democratic ideal. This means, of course, that all teachers must be servants of the State, and that the whole plan must be organised by the Ministry of Education: but there is no harm in that. So important an enterprise could not possibly be left in private hands.

The Englishman will agree that a national educational system is the very life-blood of democracy. But, he will argue, it is much too dangerous to give the State a monopoly of public instruction. That will produce standardisation. It will open the door to propaganda, and close it to experiment. It is too powerful a weapon to give to Government. The citizen, if he is to be free, must be presented with alternative schools to which he may send his children—to free elementary or to expensive preparatory schools; to secondary or to public schools; to

Church schools or State schools or private schools ; to expensive residential universities like Oxford and Cambridge, or to cheaper provincial universities. That is what freedom of choice means. To prevent over-rigid class distinctions, we must provide scholarships from State-provided schools even to Oxford and Cambridge, so that the particularly able boy or girl is not unduly handicapped in these competitive days. But the essence of England is its rich diversity of institutions, and if any of these perished for the sake of mere uniformity, something valuable would be lost.

The third example of this characteristic difference, military service, is admittedly in a slightly different category. Here the necessities of geographical position have mattered more than anything else. Britain's chief defence has been her navy, France's her army. Since Carnot and Napoleon revolutionised warfare by throwing masses of men into the field of battle, both peoples have had to be ready to act as their own soldiers in time of need. Britain, until the present crisis, minimised this service by limiting it strictly to war-time. France has regarded permanent conscription as one of the greatest signs of her democracy and her national independence. The people suffered so much from the professional army of the old régime that in the Republic the large force necessary for defence had to be a citizen army. The army is simply the people in arms. It cannot

be used against the people, because the people are the families of the soldiers. It is an even greater unifying force than the schools. From the age of twenty-one to twenty-three, every lad is taken away from his locality, made to mix with his fellows from all over France, and made conscious of a common national responsibility.

To the Englishman, peace-time conscription seems merely an unnecessary addition to the large power a modern government already wields over the individual. Is "democratising the army" not merely a device for militarising our democracy? How can we continue to make our Government politically responsible to the community, if we give it power to mould the minds and control the actions of all our young men of twenty-one and twenty-two? These are the questions which loom largest in the mind of the Englishman. To tell him that conscription, along with the elaborate organisation of Air Raid Precautions and Volunteer Defence Corps, is a return to the good old English principle of the versatile citizen and a move away from the predominance of the expert and the professional, is not to convince him that his freedom is being increased. Better not to be a versatile citizen, he will say, than to risk being a regimented subject. It will be interesting to watch how much this characteristic reaction will be permanently affected by experience of the present war.

Summarily, then, it may be said that the democratic ideal, or that aspect of it considered in this chapter, involves in both countries a deep-seated distrust of the powers of Government. In France, this distrust is permanently embodied, and as it were institutionalised, in the powers of Parliament. The French Chamber is essentially the watchdog of democracy and freedom: its special function is to keep a watchful eye on all signs of ministerial encroachments, and quickly to attack any Government which transgresses the limits of the mandate given to it by Parliament. The French Constitution, with its efforts to keep a separation of powers, is designed to secure this one great guarantee of ministerial responsibility.

In Britain, however, the guarantees of ministerial responsibility are more remote and less immediate in their action. Unless the Ministry is already precarious, judgment on Government is not passed immediately by Parliament, but only eventually, by the electorate itself, at the next election. The day-to-day control of administration is secured rather by retaining a certain diffusion of power amongst common law courts, local authorities and other bodies. The Minister is more remote from the immediate control of the ordinary citizen; but likewise the ordinary citizen is more remote, than in France, from the direct control of the Minister.

CHAPTER V

THE RULE OF LAW

Une société ne saurait vivre dans la sécurité et dans la paix, si les hommes qui la composent ne sont pas unis et comme volontairement disciplinés par une même conception de la vie, de son but et de ses devoirs. (LÉON BOURGEOIS.)

§ I

THE effect intended by a rigid "separation of powers" is nowhere better expressed than in the Massachusetts Constitution of 1780. / "In the Government of this Commonwealth, the legislative department shall never exercise the executive and judicial powers, or either of them; the executive shall never exercise the legislative and judicial powers, or either of them; the judicial shall never exercise the legislative and executive powers, or either of them: to the end it may be a government of laws and not of men." The democratic purpose, in fact, was to make government as impersonal as possible, to eliminate personality from administration, on the grounds that government is arbitrary to the extent that it is personal. The aim of all

efforts to secure responsibility of Ministers and separation of powers is also to secure the "rule of law": for that is regarded as the essence of impersonal rule, and the ultimate security for the realisation of the democratic dream.

The origin of the theory must be sought in the Roman and medieval idea that law of some kind—either the law of Nature or the law of God—ought to rule the world. To the precepts of this natural, universal or divine law, all men, whether rulers or subjects, owed obedience. It was the criterion of all actual laws, as well as of the general conduct of princes.

In more modern times this conception, as applied by those who were seeking to set up some form of constitutional government, has usually taken the form of asserting certain fundamental laws and denying the right of any political power to change them. This development has been particularly important in democratic theory. In England it resulted in the most theoretical and doctrinaire of all documents which have become a permanent part of the British Constitution—the Bill of Rights of 1689. In France it took the much more doctrinaire form of the Declaration of the Rights of Man—following closely on the Declaration of American Independence of 1776. To compare these two declarations with the English Bill of Rights, passed

a century earlier, is to find the root difference between the French and British ideals of democracy.

The Bill of Rights is one long assertion of the supremacy of Parliament. It denies that the King can do various specific things—such as suspend or dispense with laws, levy taxes, keep a standing army—unless he does these things with the consent of Parliament. Its real claim to be a statement of fundamental law is that it declares certain other acts to be in themselves illegal: such as the setting up of prerogative courts and the prevention of petitions to the King. It also lays down certain general principles—“that election of Members of Parliament ought to be free,” “that the freedom of speech and debates or proceedings in Parliament ought not to be impeached or questioned in any court or place out of Parliament,” that “Parliaments ought to be held frequently,” and so forth. These, as Lord Bolingbroke was later to point out when criticising the rule of the Whig oligarchy, were in the nature of pious hopes rather than political guarantees that such measures would be taken.

Just as the American Declaration of Independence had spoken of “the laws of nature and of nature’s God,” so the French Declaration propounded “the inalienable and sacred natural rights of man.” In the one statement these were defined as “life, liberty and the pursuit of happiness,” in the other

as "liberty, property, security, and resistance to oppression." Law, as defined by the French Declaration, is the expression of the general will, and it "must be the same for all, whether in protecting or punishing." All citizens are equal in the eyes of the law, and no one can be punished except by virtue of a law previously passed and promulgated, and legally applied. Most of the items of the Declaration are concerned with asserting the rule of law: and just as the recurring phrase in the Bill of Rights was "without consent of Parliament," so the refrain of the Declaration of Rights is "except when permitted by the law."

(The inherent difficulty of British constitutional theory has always been to reconcile the two principles of the sovereignty of Parliament and the supremacy of law. This problem, in essence, is inherent in every attempt to apply the conception of the rule of law to actual conditions; for the question at once arises, "What power is to be allowed to interpret fundamental law?" Is it to be the King? If so, the element of personal discretion at once creeps in again. Is it to be Parliament? If so, it can presumably, from time to time, change its own former interpretation of law, and so in effect make new laws. Is it to be the ordinary courts of justice, determining the detailed application of laws in individual cases? If so, what are to be the exact relationships between

these courts and the Government, which is concerned with formulating the more general rules of the State? The particular circumstances of the civil wars in England meant that Parliament and common lawyers united against the claim of the King. Their own mutual rivalry therefore gave way temporarily to reconciliation. "The price paid," as Dr. Wade puts it, "by Coke and his followers for their alliance with Parliament, which ensured the defeat of the Crown's claim to rule by prerogative, was that the common law could be changed by Parliament, but by Parliament alone."¹ Common lawyers and parliamentarians could conspire to frustrate the royal claim to prerogative powers: but after they had achieved this, they could remain in active alliance only as long as political and economic conditions remained so static that legislation was seldom needed and governmental activity was severely restricted. These conditions, as we have seen, ceased to remain static in the nineteenth century. The meaning of "the rule of law" in England has had to be completely reconsidered in the last hundred and fifty years. The supremacy of common law and the supremacy of statute law have become discordant ideas.✓

The "rule of law" in modern democracy may be said to have two aspects. It has a positive side,

¹ A. V. Dicey: *The Law of the Constitution*, ninth edition, edited by E. C. S. Wade, 1939, p. lxix. 1 21

involving rights of the individual and meaning that no one may be deprived of life, liberty or property, except for a breach of the law which must be proved in open court. It has a negative side, restricting the individual, which means that everyone is equally liable to punishment for breach of the law, and nobody stands above the law. This twofold meaning of the principle is common to the democratic ideal in both Britain and France. The difference appears chiefly in their choice of means to accomplish this common end.

Their choice of method is due to historical circumstances, some of which have been already suggested. In England the common law courts came to be regarded as the symbols of a desirably impartial jurisdiction, which transcended local and more arbitrary powers ; they then came to be historically identified with parliamentary resistance to royal prerogative power, as it was arbitrarily used by the Stuart Kings ; therefore any rival jurisdiction was suspect, and was vigorously resisted by all democrats who saw in the supremacy of the common law courts their best security for individual rights and liberties. In France, the courts were the successors of the Parlements which, before 1789, were both courts of justice and administrative bodies. They were therefore suspect. In both countries, the problem confronting democrats was to control administrative

power. But in England, the best way to do this seemed to be firm resistance to all jurisdiction separate from common law. In France, the best way seemed to be the separation of administrative from common law jurisdiction.

In this difference of attitude the French were undoubtedly the more logical. English experience has shown that administrative law cannot be properly administered by pretending that it is only a part of common law. The common law rests upon an individualistic conception of society, and lacks the means of enforcing public rights as such. Administrative law has been defined by Dr. Ivor Jennings as "the law relating to the Administration. It determines the organisation, powers and duties of administrative authorities."¹ The English, in their inconsequential way, have thought to prevent the existence of *droit administratif* merely by refusing to set up administrative jurisdiction. The French, more logically, decided that administrative powers can be adequately controlled only by administrative law, and administrative law adequately enforced only by administrative courts.

It is, indeed, absurd to pretend that persons who are agents of the State have no special powers which must be judged by standards other than those of the common law. The policeman who arrests a man is

¹ *The Law and the Constitution* (1938), p. 194.

committing an act which, if performed by the ordinary citizen, would be assault. The magistrate who fines a man is exercising a power which no ordinary citizen could wield without being accused of theft. On purely individualistic ethics, the conduct of the public hangman is murder. Yet every society recognises that these acts, if done by persons acting on behalf of the State, must be judged by ethical principles quite different from those applied to all other citizens by the common law. This recognition must, logically, be applied to all servants of the State. If the "powers and duties of administrative authorities" are so different from the powers and duties of the ordinary citizen, then surely these powers must be controlled, these duties enforced, by laws other than those which govern the conduct of private citizens. To rely upon the common law and the common law courts is to rely upon an inappropriate and inadequate instrument. Certain abuses of the powers entrusted to administrative authorities by statute are, indeed, checked by private action at common law. By the use of prerogative writs, especially, the courts can prevent authorities from exceeding their powers or neglecting their statutory duties. But these remedies are apt to be complicated and expensive, and it is doubtful whether the ingenuity necessary to stretch common law procedure to these needs is justified by the clumsiness of the

result. The confusion of public and private responsibility remains one of the peculiar characteristics of English law, just as their clear separation is the special feature of the "rule of law" in France.¹

§ 2

Even within the structure of English common law itself, there is a principle which seems a violation of the general meaning of the "rule of law" described above. It is the principle that "the King can do no wrong." Few less democratic principles can be imagined. Yet even this absolutist principle has been given such a gloss by the modern development of common law, that its undemocratic implications have been chiselled away. The fictions by which regal irresponsibility was made the basis of ministerial responsibility have been already mentioned.² In common law, it means that no legal proceedings can be started against the King, for the courts are his courts and their powers were originally derived from his authority. Likewise, Ministers are his Ministers, and civil servants are his servants. As he can do no

¹ For a clear and concise description of the general features of *droit administratif* in France, into which it is impossible to go further here, see Appendix I to the ninth edition of Dicey's *Law of the Constitution*, already quoted.

² See p. 65, above.

wrong, he cannot authorise wrong. Any servant of the Crown who does wrong must do it without authority, and is therefore personally liable to punishment at common law. As the King never does any administrative act alone, but always acts through a servant, someone other than the King is, in theory, personally responsible for the act in the eyes of the law. It is but another aspect of the English determination to allow no distinction between private and public acts.

This contortion, though ingenious, is not satisfactory. The royal servant is only personally liable, and cannot be sued so as to make public funds available for the payment of damages. The servant may be a poor man—he may be a policeman who has arrested you unlawfully, or the driver of a Post Office van which has knocked you down. With a few specific exceptions there is no wrongful use of administrative power for which the Treasury can be made to pay compensation or damages, except by the circuitous method of a “petition of right” to the King: and even this remedy for injustice can be used only in cases of contract or recovery of property, and not in cases of civil injury or “tort.” The persistent refusal to recognise public acts as acts of a special kind, which must be judged and controlled by a special body of law and a special mode of procedure, inevitably leads to individual

injustices, circumlocution, and misplaced ingenuity : above all, it leads to that most dangerous position for any democracy, reliance upon safeguards for the democratic ideal which seem adequate, but which are in fact inappropriate and sometimes inapplicable.

There is, naturally, no similar difficulty in French law. The President of the Republic, far from being regarded as legally infallible, is made specifically liable to the charge of high treason by the Constitutional Laws, in which case judgment is passed upon him by the Senate. As befits the status of the man who represents the unity and dignity of the State, he can be prosecuted only by the Chamber, and judged only by the Senate. But there is no fiction that all Ministers and departments are "his." They are held liable for all injustices they commit, and as servants of the State are governed by the appropriate body of administrative law. If the essence of the democratic ideal is, as we have defined it, "the artificial organisation of human communities, with the aim of protecting the ordinary citizen against violence and other injustice," then it cannot be denied that France achieved this ideal in the legal sphere more satisfactorily than Britain. Democracy in France gained a double security : the political responsibility of Government to Parliament and of Parliament to the electorate, and the legal responsibility of all public authorities to the administrative

courts. Democracy in Britain is secured by a more tenuous political responsibility of Government to electorate, and a scarcely less tenuous legal responsibility of all servants of the Crown before the courts of common law.

The survival of the doctrine that "the King can do no wrong" suggests, however, another aspect of the "rule of law" which must not be overlooked. It is more than a relic of the theory of Divine Right of Kings. It is the expression of a profound and eternal desire to exalt the symbol of "Government" above political dispute and dissension. It fulfils the desire of all human society for a fixed centre, a permanent focus, which will transcend political divisions and express simply the unity and integrity of the community. It is no accident that the nations of modern Europe first achieved unity under monarchies. We have already seen that these impulses of integration have been the prerequisite of the democratic ideal in France and England.¹ In relation to the "rule of law," they express a permanent preference for stability and order, a recognition that even unjust laws must not be recklessly overthrown, lest in our passion for democracy we endanger government. In England, they take the form of a general determination that "the King's Government must be carried on," and the tendency

¹ See p. 13, above.

to accredit all acts of government to "the Crown," which can do no wrong.

It is through these impulses of integration, above all, that nationalism impinges on democratic government. The realisation of national unity makes possible a vivid, imaginative grasp of the community as a whole. In this imaginative grasp—this political intuition—the democratic vision finds the spark that brings it to life. Only when these two creative forces draw near to one another is there generated that life-giving spark which galvanises democracy into action. A French writer has expressed this truth in fine words. "Quelle que soit la forme du gouvernement, qu'il s'agisse de république présidentielle ou parlementaire, de monarchie constitutionnelle ou coutumière, un régime est démocratique lorsque la volonté de collaboration sociale des individus se révèle spontanée et plus forte que leurs impulsions anarchiques. Cette volonté aboutit à la formation d'un corps de coutumes et de lois, que l'individu libre respecte parce qu'il a le sentiment que son bien-être personnel et la prospérité commune en dépendent. L'expression des opinions est libre dans la mesure où elle ne compromet pas la collaboration. . . . La démocratie est liée à la structure de tempérament national dans la mesure où la volonté sociale l'emporte sur les désirs individuels."¹

¹ Paul Guérin : *Le Problème français*, p. 69.

A distinguished German scholar,¹ seeking the secret of British democracy, finds it in just such a natural conformity, a spontaneous assimilation of the individual to certain types. He decides that "there is no large-scale society in Western Europe, perhaps on the whole earth, where self-restraint and social and mental conformity are carried so far as they are in England." The keynote is solidarity: a natural and durable solidarity, based upon a voluntary surrender of individualist tendencies to certain generally accepted codes of behaviour and manners. "The free Englishman himself lives under a dictatorship and probably under a more effective one than his German neighbour. . . . His dictator is installed in his heart. He identifies himself with his code as the pious Jew identifies himself with the Law. Authority does not need to put him on leading-strings, because it can depend on his using his freedom only to the extent that society can bear." Only in a community of individuals who are accustomed to practise this self-restraint and not find it irksome, can social solidarity and individual freedom be completely reconciled. "A large-scale society can stand the strain of freedom of action on the part of its members only if the individualization of those members is kept within definite limits. The individual must pay for this

¹ Adolf Löwe: *The Price of Liberty* (1937), pp. 14, 23-26.

freedom by being turned to a certain extent into a type. The price of liberalism as a social principle is the sacrifice of self-indulgence." Life in such a society is true freedom : " the sense of security that permeates an individual in a society which really functions is even more important in the economy of the soul than the complete realization of his vital and intellectual trends and urges." Only in a homogeneous community, sharing the democratic vision of the desirable society, is individual liberty attainable.

When Walter Bagehot described the English Constitution of 1867, he distinguished between the *dignified* parts, " which excite and preserve the reverence of the population," and the *efficient* parts, " those by which it, in fact, works and rules." He identified the King with the one, the Prime Minister with the other. The political significance of the " rule of law " is clearly shown in this distinction. The technical need for unified government and concentration of responsibility has produced the office of Prime Minister. One man is at the same time the leader of the most powerful political party in the country, the leader of the House of Commons, the Chairman of the Cabinet, the chief adviser to the King, and, usually, the First Lord of the Treasury. He is at once head of the legislature, the executive and the administration. Yet, because he is changeable,

there must exist also a permanent symbol of national unity, the King, standing above party differences and the turmoil of everyday politics. And in Britain, partly for historical reasons, but partly too for psychological reasons, the two are still further fused, or confused, in the comprehensive notion of "the Crown."

That these two impulses of integration, the technical and the psychological, are not limited to Britain, is shown by the experience of modern France. In the National Assembly it was debated whether the Third Republic should have a President or not. In one of the most rationalistic and practical of bodies that ever planned a constitution for one of the most politically experienced of nations, it was at last decided that democracy needed a formal symbol of its orderliness and singleness, separate from the efficient part of its government. The French office of Premier grew to be essentially the same as the British office of Prime Minister: a fusion of party-leadership, parliamentary power, and executive and administrative authority. The French President, like the British monarch, has consequently lost political power, but has gained in ceremonial importance.

The "rule of law" and the maintenance of order involve the exercise of power—the passing of laws, the enforcing and application of these rules, day-to-

day actions. Therefore the headship of the community must be associated with this exercise of power. But it is not satisfying if it is identified with routine government. It tends, in a modern Nation-State, to be exalted to a plane of greater serenity. Orderliness and unity are a habit, a tradition, a matter of imagination, intuition and sentiment, as well as a matter of organisation and administration. These irrational, non-intellectual elements of the "rule of law" must be satisfied and recognised by any constitution which is designed to meet the needs of the modern Nation-State.

CHAPTER VI

ECONOMIC DEMOCRACY

L'homme de gauche, c'est le meunier de Sans-Souci. "Vous êtes un grand roi, un héros, vous êtes tout ce qu'il vous plaira, mais mon moulin est mon moulin. Je ne le vendrai pas si je ne veux pas le vendre." (EMMANUEL BERL.)

§ 1

THIS short essay has dealt, in turn, with the political, constitutional and legal implications of the democratic ideal as it has been realised in France and Britain. Only incidental mention has been made of the economic implications of the democratic ideal. Since the Great War until only three or four years ago, attention was concentrated, in France and Britain, almost entirely upon the economic implications of democracy. It has already been shown that Socialist movements before the war blended with democratic movements, and operated within the democratic political framework of France and Britain. Not only were the enormous social and economic problems of the post-war years by far the most urgent problems—reparations, war-debts, un-

employment, currency difficulties : but also political democracy had now been established, and it was right and logical to work for the establishment of economic democracy. But the problem was obscured by the prevalence, after 1917, of Communist movements, operating against democratic methods, under the guidance of the Third International. The peculiar conditions of Revolutionary Russia made necessary the sacrifice of political democracy in the name of future economic democracy. The Socialist ideal is not at all incompatible with democracy. Even the ultimate ideal of Communism is compatible with democracy, and Fascism is the common enemy of both. But the immediate aim of the Comintern and the Bolshevik method of pursuing the Communist ideal are quite incompatible with it. Indeed, the Communists at this time were apt to pour more vituperation upon democrats and moderate Socialists than upon frank reactionaries. They thus did much to weaken the forces of democracy, and to pave the way for the rise of Fascism.

During these years, the democratic ideal was beginning to be restated—as always—in terms relevant to the forces which opposed it. Given long enough, the practical implications of the ideal in economic life and organisation would doubtless have been realised in France and Britain. Where both the democratic vision and the political machinery of

democracy are vigorously alive, further aspects of the ideal can be realised. But the Western democracies, harassed internally by problems of currency, unemployment and disruptive agitation, distracted externally by the need to build up some form of collective security in Europe, and weakened by the loss of vigorous manhood in the war, moved but little towards greater economic democracy. The Socialist Governments which came into power were unstable and short-lived. When, after 1933, the Comintern changed its policy and encouraged the formation of "Popular Fronts" of all Left-wing parties in order to resist Fascism, it was already too late. By the time Russia entered the League of Nations, the Fascist powers had already discredited it and withdrawn. Conservative Governments in France and Britain, wobbling between their distrust of Russia and their fear of Fascism, fell into futility. The present chaos into which Europe is plunged is the direct product of these years.

France, with her usual political vivacity, embarked on a great experiment in economic democracy even at the eleventh hour, when it seemed almost a dangerous luxury in face of the menace from Nazi Germany. The whole programme of social legislation which the Popular-Front Government of M. Blum put through so quickly was doomed to failure: not, it should be noted, because it was

undesired or deemed unjust by the mass of the French people, but because the international situation was such as to make it inopportune. The forty-hour week was incompatible with national defence against Hitler. The expenditure involved in raising the school age, pensions, and other such steps in social progress merely weakened France financially for her fight with Germany. It was impossible to rebuild one's house in a hurricane. British social experiments were more tentative and less spectacular. They aroused little public interest, when foreign affairs provided so strong a counter-attraction. It is doubtful whether the social disorganisation caused by the French experiment or the complacent inertia of the British attitude proved the greater handicap, when the two countries were at last confronted with the inevitable war in 1939.

Before "economic democracy" can form an integral part of the realisable democratic ideal in France and Britain, it is not only necessary that these countries should be freed from the burden of perpetual preparedness for war and the constant menace of Nazism, but also that the meaning of the ideal itself should be worked out more clearly than at present.

Even the precise meaning of "economic democracy" is still a matter of profound dispute amongst democrats. It is by far the haziest part of the democratic dream. A few lines stand out, but

as yet they form no pattern. It involves, presumably, such distribution of wealth as will prevent the present extremes of poverty and wealth ; the prevention of big-scale unemployment ; security of work ; no exploitation of workers for the private fortune of a few. In industry this seems to involve rigid State control and State supervision ; it is less clear that it necessarily means State ownership. In finance and transport there is the same tendency towards greater State action. But is it necessarily the same in agriculture ? We have already seen that the French peasant proprietors were the very backbone of the Third Republic, enjoying a sturdy economic independence which affected their whole outlook and which can only be called democratic. Are distributivism and collectivism necessarily hostile principles, which cannot be reconciled in progress towards more complete democracy ? These are fundamental issues to which the answers are still not integral parts of the democratic vision in Britain and France. If it be remembered how long it was before the full political implications of the ideal came to be generally accepted—such as universal suffrage or secret ballot, which now seem so obvious and natural—then we need not be greatly surprised at this.

Consider, for example, the basic principle of economic justice. Is it "From each according to

his ability, to each according to his work " ? Or is it " according to his needs " ? Or is it " according to his desires " ? These three slogans are often confused, but they have very different implications as principles of distribution.

The first principle is the one at present adopted in Russia. The twelfth article of the Constitution of 1936 states that " Work in the U.S.S.R. is the obligation of each citizen capable of working, according to the principle : ' He who does not work shall not eat.' " In the U.S.S.R. the principle of Socialism is being realised : ' From each according to his ability, to each according to his work.' " This slogan exalts work as a virtue, and is clearly conditioned by the need for greater production. The principle which England applied to the idle poor, Russia applies to the idle rich. It is the slogan of the workhouse as well as of the workshop—the expulsion of drones from the hive.

Modern Communist theory distinguishes between this principle of " Socialism " and the ultimate principle of " Communism " which is called " distribution according to need." But, it should be noted, what is really meant is distribution " according to desires." Stalin, at the Seventeenth Congress of the Communist Party in 1934, clearly distinguished between " the equal right of all toilers to receive according to the amount of work they have done

(*Socialist* society) ” and “ the equal right of all toilers to receive according to their requirements (*Communist* society).” And he was careful to add that “ Marxism starts out with the assumption that people’s tastes and requirements are not, and cannot be, equal in quality and quantity, either in the period of Socialism or in the period of Communism.” English Marxists, such as Mr. John Strachey, elaborate the same distinction. “ Do we mean by that,” asks Mr. Strachey, “ that everybody is to be allowed to have as much of everything as he likes, and, more extraordinary proposal still, that nobody is to be compelled to do more work than he wants to ? Yes, that is just what is meant.” ¹

Yet is this identification of “ needs ” with “ desires ” justified ? “ From each according to his ability, to each according to his need ” has long been a principle of social justice in democratic and humanitarian thought. It assumes that every citizen has certain basic material needs—food, clothing, shelter, and so on—which no member of the community, by reason of his humanity, should have to leave unsatisfied. It demands the provision of a minimum basis of subsistence for every person in the State, no matter what his ability may be. It is an amelioration of the workhouse principle that

¹ John Strachey : *The Theory and Practice of Socialism* (1936), p. 112.

he who does not work shall not eat. It is suited to a state of plenty, unlike the first principle which is adapted to the fact of scarcity. It is the elementary demand that there shall not be cake for anybody until there is bread for everybody. But it involves a criterion of "need" other than that of the individual concerned. It involves some communal estimate of subsistence level.

The confusion of this principle with the third concept, "to each according to his desires," has introduced into modern Communist thought an element of Utopianism. Every citizen is to have free access to all the wealth which he feels is necessary for his personal development, irrespective of any calculation of the extent or utility of his services to the community. It is an extreme individualist principle, and is but one aspect of that Utopian Communist vision of the ultimate society, when the completely classless society shall be achieved, the State shall wither away, and Communism blend into Anarchism. As already suggested, this vision is in no way incompatible with the democratic ideal. The democrat can agree that the state of affairs visualised in this third slogan would be very admirable. He can also agree that the principle of distribution "according to need" is a great principle of economic justice, which he has himself widely applied in France and Britain in the form of free social services

—which clearly involve distribution according to need—as well as pensions schemes, unemployment relief, graded income-tax, and a dozen other ways. He often remains more dubious of the first principle, “distribution according to work.” Is any activity “work”? What basic unit of measurement can be found to calculate the quantity or quality of “work” done by an artist, doctor, politician, miner, ploughman, hotel porter? Such a unit must be found, if “work” is to be the measure of wealth received. Each principle as an isolated dogma is inadequate. May not all three have to be integrated, before we have a truly democratic ideal?

§ 2

At the end of this brief survey of the democratic ideal which has played so dominant a rôle in the history of France and Britain, we are driven back to the considerations with which we started. Democracy, whether in its political, constitutional, legal or economic aspects, is a theory of power. It is a theory of how communal power ought to be distributed and controlled, so as to provide the greatest security and freedom for the individual. In modern society the individual's enjoyment of liberty and equality depends upon the distribution and control of power. The Marxist notion that economic power is the only form of power that

matters has surely been permanently disproved by the development of Germany under Nazi rule. Power depends upon the loyalty and obedience of men. Loyalty and obedience can be gained in various ways—by economic pressure, by propaganda and education, by the organised use of physical force. Whatever its mode of acquisition and operation, it always takes the ultimate form, in modern Nation-States, of political power. Power to-day means, in the long run, control of the State. For that brings with it all other forms of power.

For this reason the political experience of France and Britain and the democratic ideals nurtured in that experience have the greatest and most immediate relevance to-day. The most democratic nation is that which most effectively harnesses political power for the benefit of the whole community of ordinary citizens. It is only forty years ago that an injustice to a single Jewish officer in the French army rocked the whole régime of the Third Republic. It enlisted the support of the most prominent literary men on the side of Captain Dreyfus ; and when he was vindicated the whole democratic world thrilled with a sense of triumph. Within the last ten years there have been thousands of Dreyfus cases in Germany, and only murmurs of indignation have been heard. Even whilst this book has been in the press, France has fallen under Nazi control. The Third

Republic, which owed so much of its greatness to the spirit of the Dreyfusards, has run its allotted span of three score years and ten and has died. Britain alone remains the bastion of the democratic ideal in Europe. It seemed, at first, that much of this little essay should be thrown into the past tense.

But so long as this bastion stands, it is well that all discussions of the democratic ideal should remain in the present tense. The spirit of the Dreyfusards still lives in Europe. When, to bitter experience of Nazi rule, is added the spectacle of Nazi might hurling itself futilely against this stronghold, who can doubt that all who share the spirit of the Dreyfusards will again be roused to strenuous resistance? Now that the lights have gone out in Europe, it is more than ever important to remember that the future is always the result not of the immediate past, but of the whole of the past. The events, tendencies and arguments outlined in this essay have now a new, and not a diminished, significance. For the decisive factor in the whole of the past and the present is not the spectacular and expensive exploits of ramshackle dictatorships, but the permanent desire of ordinary men and women in all parts of the world for security against violence and injustice. That, as we have seen, is the eternal human aspiration on which the democratic ideal is based. And that ideal is inseparably bound up with the national unity,

greatness and independence of France and Britain. It is well that the betrayers of French democracy and of French national independence should have found that they could not put the new wine of Fascism into the old bottles of the Third Republic : even when it was watered down with Vichy. Fascism in France is now irrevocably associated with national subjection and humiliation. That is a good omen for the future.

We in England, who have known neither a revolution nor a major military defeat for some three hundred years, find it difficult to appreciate the eternal interaction between war and revolution, and the large part which this interaction has played in the development of all European Nations. War has been a particularly strong force in the development of France. A series of dynastic wars against the Hapsburgs hammered out her national frontiers. A series of imperialist wars against England moulded and stimulated her national spirit. The series of nationalist wars against Germany, as Professor D. W. Brogan so ably shows in his study of *The Development of Modern France*, did much to shape the character of the Third Republic. France's defeat in this, the third of the great trilogy of Franco-German battles, has given the story a specious air of finality. But the battle is still going on : and war and revolution are still very closely connected.

The final truth was perhaps best expressed by a great Frenchman, de Tocqueville. "There are nations," he wrote, "which have tirelessly pursued freedom through every kind of peril and hardship. They loved it, not for its material benefits; they regarded freedom itself as a gift so precious and so necessary that no other could console them for the loss of that which consoles them for the loss of everything else. . . . I attempt no analysis of that great emotion for those who cannot feel it. It enters of its own accord into the generous hearts God has prepared to receive it; it fills them, it inspires them; but to the meaner minds which have never felt it, it is past finding out."

INDEX

Ancien régime, 2-3, 7, 25-6
Anglo-French relations, 2-3,
24, 39, 49

BUREAUCRACY, 85-9
Burke, Edmund, 26, 54-5,
66-8

CATHOLIC Church, 7-11
Chamber of Deputies, 35, 41-
47, 52-3, 57-8, 60-2, 70-7,
104, 115
Chartism, 22, 27-30

DICTATORSHIP, 4-6, 132

EDUCATION, 40, 100-2

GERMANY, 7, 18-23, 60, 131

HOUSE of Commons, 28, 48-9,
58, 62-6, 70-1, 73-6
House of Lords, 27, 47, 49,
58, 62-3, 90

ITALY, 18-23

LAW :
in Britain, 81-5, 90-1, 93-
95, 110-5
in France, 81-3, 92-7,
110-1

Liberalism, 18, 21-2, 30, 43,
119

Local Government :
in Britain, 97-9
in France, 99-100
Louis XIV, 12, 14, 82

MINISTERIAL responsibility,
Chapter III *passim*
Monarchy, 9-10, 12, 26-7, 33,
81-2, 120
Montesquieu, Baron de, 3,
79-80

NATIONALISM, 12-23, 117
Nation-State, 11, 14, 17, 116,
121, 131
Nonconformity, 10-11

PARIS, 8, 31-2, 51-2
Party system :
in Britain, 55-6, 66-71
in France, 56-61, 74
Peasant proprietorship, 13,
35-6, 38, 126
President (of France), 31, 42,
45-7, 96, 115, 120
Prime Minister :
in Britain, 78, 119-20
in France, 46, 77

RADICALISM :
in Britain, 3, 25-6, 34
in France, 9, 36, 51-2
Reformation, 9, 10, 12

- Republicanism :
 in Britain, 33-4
 in France, 22, 26-7, 32, 34, 42, 59
 Revolution :
 American, 1776..3, 25, 106-7
 English, 1688..2, 16, 64, 106-7
 French, 1789..3, 7-9, 25-26, 41, 52, 58-9, 82-3, 107-8
 "Rule of Law," Chapter V *passim*
 SENATE (in France), 42-7, 57, 61-2, 72, 77, 115
 "Separation of powers," Chapter IV *passim*, 105
 Socialism, 27, 30-8, 57, 124, 127-8
 THIRD Republic (in France), viii, 17, 32, 34, 39, 44-7, 57, 92, 131-3
 Trades Unions :
 in Britain, 30, 36-8
 in France, 34-7
 UNITED States of America, 16, 17, 19, 21, 47, 79
 Universal suffrage, 28, 42-3, 45

